S. Hrg. 98-1227

ILLEGAL USE OF VIDEO GAMBLING MACHINES

HEARING

BEFORE THE

PERMANENT
SUBCOMMITTEE ON INVESTIGATIONS

OF THE

COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

OCTOBER 1, 1984

Printed for the use of the Committee on Governmental Affairs

41-984 O

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1985

5401-22

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ILLEGAL USE OF VIDEO GAMBLING MACHINES

MONDAY, OCTOBER 1, 1984

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The subcommittee met, at 10 a.m., pursuant to call, in room SD-342, Dirksen Senate Office Building, under authority of Senate Resolution 354, section 13(a), dated March 2, 1984, Hon. William V. Roth, Jr. (chairman of the subcommittee) presiding.

Members of the subcommittee present: Senator William V. Roth, Jr., Republican, Delaware; Senator Warren B. Rudman, Republican, New Hampshire; and Senator Sam Nunn, Democrat, Georgia.

Members of the professional staff present: S. Cass Weiland, chief counsel; Eleanore J. Hill, chief counsel to the minority; Katherine C. Bidden, chief clerk; Nick Chiarkas, deputy chief counsel; Howard Shapiro, staff counsel, majority; Bruce Selcraig, staff investigator, majority; Leonard Willis, staff investigator, minority; Charles Osolin, press secretary; Cindy Comstock and Betsy Hoch, majority staff assistants.

[Senators present at convening of hearing: Senators Roth and Rudman.]

OPENING STATEMENT OF SENATOR ROTH

Chairman ROTH. The subcommittee will please be in order.

I think as the machines we have here today demonstrate, high technology has moved into still another aspect of American life; that is, illegal gambling. These video poker machines, and other games, illustrating what we are talking about, lend themselves to gambling and, in all candor, are increasingly finding their ways into bars, truck stops, video arcades, fraternal organizations, convenience stores, and other businesses.

Presumably, these machines are manufactured for amusement only and do not pay off directly like slot machines. Nevertheless, these high-tech versions of the one-armed bandits are being used for illegal gambling throughout the country, causing growing concern among law enforcement authorities at all levels.

[At this point in the proceedings, Senator Nunn entered the hearing room.]

Chairman ROTH. I want to stress that the subcommittee's concern today is the illegal use of these machines rather than the machines themselves. This distinction is important because video poker machines only become illegal when actual cash payoffs are made to winning players. Nevertheless, I think the evidence will show that these machines often are made with features that could only be used for gambling purposes. So in a very real sense, the legitimacy of the machines themselves becomes a serious question, and for this reason, a few State courts have outlawed all such machines, and they have been confiscated both from establishments where they were operated and from manufacturing plants. Such mass seizures are occurring in a number of jurisdictions, as are arrests of those people selling and operating the machines.

I would like to place, with no objection, in the record several news articles describing these seizures.

[The newspaper articles referred to follow:]

[From the Washington Post, July 17, 1984]

GRAND JURY TO PROBE ILLEGAL VIDEO GAMES

(By Chris Spolar)

Maryland state and Charles County prosecutors are scheduled to reconvene a grand jury Thursday in a continuing investigation into what they say is widespread use of illegal profit-making video poker games in the county.

So far, the six-month-long investigation by Charles County State's Attorney Stephen J. Braun has resulted in the arrests of five county residents and confiscation of more than $200,000 in illegal revenues for the owners of the popular electronic game.

The activity [gambling] has been continually, gradually increasing," said Braun, who called the games a million-dollar business for the rural, Southern Maryland county of 73,000 people. "It's so lucrative. Where else in Charles County could you make $1,000 a week?"

Braun recently asked for assistance in the investigation from the Maryland state prosecutor's office, a Towson-based agency charged with investigating multicounty crimes and political corruption.

"My investigation really has just gotten started," said Assistant State Prosecutor Gerald Ruter. "I am shocked at the amount of money we've looked at down there—and that's in an area that has only a teeny amount of people."

Braun, referring to a state statute that since 1968 has prohibited traditional slot machines because they were profit-making gambling devices, said his office has been confiscating video poker games for the same reason.

Since May 4, six establishments—including a store owned by Charles County Commission President Marland Deen—have been raided, five persons arrested and 30 machines confiscated. The latest gambling charges, all misdemeanors punishable by a $1,000 fine and a year in jail, were filed July 12 against truck stop owner Roger D. Baldwin of Morgantown.

Other persons charged with misdemeanors in previous raids include Elaine Ferris and her son Larry, owners of Earl's Truck Stop in Bel Alton where most of the $200,000 in allegedly illegal profits were confiscated; Donald R. Owens, owner of the Wine Cellar in Waldorf, and Clayton F. Russell of the VFW Post in Bel Alton. No charges have been filed against Deen, who declined to discuss the case yesterday.

"Almost every bar in Charles County had them," said Braun. "Some country stores had them. Some even gave drinks to the people as they played."

But the proliferation of the electronic video games, which became popular in 1976, is not limited to Charles County, Braun said.

His investigation began in January about the same time an informal federal-local task force of law enforcement agencies began discussing the problem of the video games.

"It's organized crime, and we're trying to take a statewide approach to the problem," said Sgt. Charles Dammann, a detective with the Maryland State Police. "Different counties have reached different plateaus of enforcement. What we're concerned about is the other things that come with it: political corruption, payoffs and political influence."

Damman said the machines have appeared in all jurisdictions in Maryland. In 1980, he said he and several other officers seized 158 such games from a firm in Anne Arundel County. Prosecution of that case prompted the Maryland Court of Special Appeals to set three criteria for determining the illegality of the game: If the machine allows free plays, gives the player the odds to win and keeps track of the number of wins, it is illegal.

[From the Philadelphia Daily News, Friday, Sept. 7, 1984]

FEW BAR OWNERS WILLING TO CALL CITY'S BLUFF ON VIDEO POKER

(By Leon Taylor and Joe O'Dowd)

City law-enforcement officials laid their cards on the table two weeks ago, when they announced an impending citywide crackdown on illegal video-poker machines.

And judging from the results of the first round of raids to confiscate the machines, very few bar owners are willing to call the city's bluff.

Members of the Police Department's Major Investigations Division fanned out all across the city yesterday, checking nearly 300 bars for the illegal gambling devices, said MID commander Capt. Edward McLaughlin. But only 12 machines were found and confiscated.

"We are extremely pleased [about the outcome of the raids]," McLaughlin said. "It looks like the vast majority of the population of Philadelphia has decided to comply with the judge's order that these machines are illegal.

"A very influential factor is that we have won every single case regarding the destruction of the machines," McLaughlin added. "In other words, if we take your machine, it gets dumped at Delaware [Avenue] and Spring Garden [Street] and it gets crushed. The vendors themselves have decided not to take the chance of having their machines seized and destroyed."

Common Pleas Judge Edward Blake ruled last February that the machines were illegal. But that decision was the subject of courtroom disputes until state Superior Court refused to hear an appeal last month, thus allowing Blake's original ruling to stand. The law applies to video-poker games across Pennsylvania.

Law-enforcement officials say the payoffs made by bar owners to video-poker players when the machine deals a winning hand constitutes illegal gambling,

Police Commissioner Gregore Sambor and District Attorney Edward G. Rendell announced the citywide crackdown on video poker at an Aug. 22 news conference.

At that conference, Sambor called video poker a "lucrative" source of revenue for organized crime in the city, generating an estimated $4 million each week while adding nothing to the state's tax base. Rendell said there could be thousands of the machines in the city.

The Police Department and the DA's office mailed notices two weeks ago to city taprooms and vending machine suppliers, warning them of the impending crackdown, Rendell said. The notices gave the taproom owners a two-week grace period to get rid of the machines.

Owners and operators of establishments harboring the machines have been warned that they face five-year prison terms and up to $10,000 in fines if they replace a confiscated machine. They also face possible suspension or revocation of their liquor license.

[From the Philadelphia Daily News, Sept. 11, 1984]

500 ILLEGAL GAMBLING MACHINES SEIZED IN BUCKS RAID

(By Kurt Heine)

Law enforcement officials seized about 500 illegal electronic gambling machines worth $1 million yesterday in Bensalem Township, Bucks County, and shut down what they said was eastern Pennsylvania's largest maker of the devices.

In an operation that began yesterday morning and lasted all day, detectives loaded every video gambling machine they found inside the 50,000-square-foot manufacturing complex of Merit Industries Inc., onto tractor-trailers. Merit produced most of the hundreds of video gambling games that police have seized in raids on Philadelphia and suburban bars.

Yesterday's raid, said Bensalem Deputy Police Chief Theodore R. Zajac, "marks the largest single confiscation of illegal gambling machines in the state of Pennsylvania."

No one was arrested in connection with the raid, but authorities said Merit executives—whom they declined to identify—probably would be charged with illegally manufacturing and distributing the video-poker, blackjack, craps, dice and slot machines.

Once the machines are counted and stored in a county warehouse in Bristol Township, the district attorney's office plans to ask a judge to order that the devices, which cost $1,500 to $2,500 each, be forfeited and destroyed, said First Assistant District Attorney Alan M. Rubenstein. A county judge in June handed down a similar order involving the 60 video-poker machines that police had seized earlier from Bucks County bars, he added.

Merit Industries expanded its manufacturing operations from cramped offices in Cheltenham Township to a large brick building along State Road in Bensalem about six months ago, authorities said, and made no attempt to conceal its only business—video gambling machines.

"They were very open," said Zajac, adding that detectives obtained a search warrant for yesterday's raid by simply watching the machines being loaded onto trucks in the past few weeks.

Until police carted them away, the company's plush reception area featured a sampling of its video machines, which Rubenstein said were distributed to bars and other businesses across the Northeast.

Two men in business suits, identified by police as company executives, refused to comment on the raid.

An attorney who represents the firm, James A. Downey III, said company officials "were mostly confused" when police showed up yesterday morning with a search warrant and began hauling most of the company's inventory and business records away.

The company, which police said employs 50 or 60 people, will remain closed indefinitely, Downey said.

Bucks County authorities said they began investigating the company late last month after meeting with Philadelphia District Attorney Edward G. Rendell and Police Commissioner Gregore J. Sambor. The two city officials, who announced a crackdown on the machines in Philadelphia bars, said they believed Merit Industries had moved to Bensalem, Zajac said.

The company is listed in township records as an "industrial manufacturing" business, said Zajac. He added, "We had no idea exactly what they were producing."

The video machines are typically installed in bars, where patrons plug in coins for the chance to play a poker hand against the computer. Bars frequently pay off winners, authorities contend. Owners of the machines have complained that the video games are simply for amusement, but the state Supreme Court has ruled that they are illegal gambling devices and may be seized by police.

Rubenstein said each machine can produce up to $4,000 a week in revenue, which he said creates a climate ripe for organized crime involvement in the electronic gambling industry.

"Notwithstanding the fact that they're illegal," said Rubenstein, "the game is an absolute ripoff."

[From the New York Times, Aug. 9, 1984]

PHILADELPHIA JURY GETS POLICE CORRUPTION CASE

(By William Robbins)

PHILADELPHIA, Aug. 9—A Federal jury began its deliberations today on seven former police officers whom prosecutors described as having corrupted their law-enforcement units into an "enterprise" devoted to extortion and bribery.

The seven range from a street patrol officer to former Deputy Commissioner James J. Martin, once the second-highest ranking officer in the Philadelphia Police Department.

The jurors retired for the night after more than five hours of reviewing testimony in the case. They are scheduled to resume deliberations Friday.

The case went to the jury after two days of closing arguments in which the chief prosecutor, Assistant United States Attorney Howard B. Klein, painted "a picture of corruption that extends all the way up the ranks."

"I ask you to send a message out of this courtroom that corruption by those who are charged with enforcing the law will not be tolerated," Mr. Klein said as he closed the case for the prosecution.

Much of Mr. Klein's summation dealt with the evidence against Mr. Martin and a fellow officer who had risen to the highest civil service rank in the department, former Chief Inspector Joseph DePeri.

Besides Mr. Martin and Mr. DePeri, the defendants include a former captain, Dennis Linso; three former lieutenants, Henry Pecic, Theodore Murphy and George Katz, and a former patrol officer, George Morrell.

All seven were charged with racketeering and extortion. Mr. Martin and Mr. DePeri were also charged with obstruction of justice.

23 INDICTED SO FAR

They are among 23 indicted so far in a continuing investigation of police corruption here. Seven, including a former inspector, were convicted last year, and eight others are awaiting a trial scheduled to begin next month. No trial date has been set for the other indicted police officer, a detective who is now a Government witness against his former colleagues.

"These men used the Philadelphia Police Department as an enterprise," Mr. Klein said as he began summing up the evidence in the current case. "They violated a sacred trust. They took money not to enforce the law."

The prosecution case was built on testimony of more than 30 witnesses, including a former captain and a detective who confessed guilt in the corruption they described, as well as on recorded conversations secretly taped by the former captain, Joseph Alvaro, and on records seized in a raid on a numbers operator's home.

Lawyers for the accused men repeatedly reminding the jury of their obligation not to convict if they are left with any "reasonable doubt." The defense lawyers relied principally on character witnesses who spoke for the defendants and on attacks on the credibility and motives of witnesses for the prosecution.

The evidence that seemed most damaging to Mr. Martin came from his taped conversations with Mr. Alvaro. The tapes depicted Mr. Martin promising to provide money for Albert Ricci, the former detective who became a Government witness. The charge of obstruction of justice against Mr. Martin stemmed from a total of $2,000 in payments that Mr. Ricci testified to receiving after he had been indicted. The Government charged the money was a bribe from Mr. Martin to buy Mr. Ricci's silence.

TAPED CONVERSATION CITED

Mr. Klein cited a recording of Mr. Martin's voice promising to pay "whatever his salary was plus whatever he needs" and adding, "He should tell me exactly what he wants."

Mr. Klein also cited a tape-recorded assertion by Mr. Ricci, who had said he was the ring's pickup man, that he had passed "every dime" of extorted payments to Mr. Martin in a period when the former officer headed the department's Northwest Division.

Mr. Martin is also charged with using a new citywide investigations unit to extort funds needed for bribes to try to thwart the Federal inquiry.

"There's a man," said Mr. Klein, "who continued his corruption all the way to the deputy commissioner's office."

Mr. Klein also relied heavily on the recordings to argue his case against Mr. DePeri, citing an exclamation by Mr. DePeri to Mr. Alvaro to the effect that "you're saved and I'm saved" after one series of indictments included neither of the man's names.

Mr. Klein also cited the records seized from the numbers operator in which sums of money were listed beside initials that corresponded with those of Mr. DePeri. The numbers operator had testified that the money was picked up by Mr. Katz.

Mr. Klein also cited testimony that Mr. DePeri had ordered Mr. Alvaro to destroy incriminating evidence left in Mr. Martin's office, and that Mr. Alvaro had broken into Mr. Martin's desk to do so.

GAMBLING OPERATORS TESTIFY

The cases against the other defendants rested largely on testimony of gambling operators that they had paid money to the officers either directly or through pickup men.

Mr. Martin's lawyer, William Winning, acknowledged that Mr. Martin had given the $2,000 to Mr. Ricci but said the payments had only been contributions to help a the former detective, a close friend.

And Mr. Winning, noting that Mr. Martin had an overdrawn bank account and a heavily mortgaged house, asserted that "there is not one single piece of paper that shows that Jim Martin took any money."

Mr. DePeri's lawyer, Malcolm Lazin, noted that none of 18 gambling operators who testified "ever said they gave Joseph DePeri 1 cent" and he argued that the case against his client had been fabricated by Mr. Alvaro and Mr. Ricci to save themselves.

To do that, he said, the witnesses had to show that they could "finger higher-ups."

[From the Philadelphia Inquirer, July 14, 1984]

Convicted Ex-Officer Testifies—Tells of Giving Cash to Superiors

(By Tim Weiner)

A convicted former Philadelphia vice officer, four video-poker machine vendors and a retired numbers broker testified yesterday that they were part of a system of extortion run by members of the Philadelphia Police Department.

Their testimony came in the third day of the trial of seven indicted police officers in U.S. District Court.

Former Officer Lawrence Molloy, telling the jury that "I'm being actually forced to testify here today" by a federal judge's order, reluctantly outlined his role as a collector of extortion money from numbers operators and video-poker machine owners on behalf of two of his superiors, Inspector John DeBenedetto and Lt. John Smith.

DeBenedetto, Smith and Molloy were convicted of extortion last year, along with two other former officers.

Struggling at times to keep his composure, Molloy talked about some of the shakedowns that led to his conviction. U.S. District Judge Daniel H. Huyett 3d later instructed the jury that Molloy's conviction on extortion charges had "no connection" with the current case.

In terse testimony, Molloy said he had received money from at least six owners of video poker machines used for illegal gambling in Center City clubs and bars—the largest payoffs being $1,500 a month, the smallest $200 a month—and passed the money along to Smith and DeBenedetto. He said he later received a small portion of each payoff, usually $25 or $50.

Federal prosecutors called Molloy to the stand to bring out evidence that extortion money was routinely passed up through the ranks of the police force from beat patrolmen to commanding officers.

"Approximately how much did you pass up to Lt. Smith?" Assistant U.S. Attorney Peter F. Schenck asked Molloy.

"About 95 percent" of the money, the convicted officer said, adding that it was impossible for him to calculate how much money that was. The DeBenedetto case involved about $115,000 in payoffs to the five officers.

Molloy's testimony, which he said was given under threat of a contempt-of-court citation, brought immediate calls for a mistrial from all seven defense attorneys. "The government is retrying the DeBenedetto case in front of this jury," said attorney Malcolm Lazin. "All they're trying to do is inflame the jury."

Huyett denied the mistrial motion, the fourth time he has done so since the trial began.

The trial includes charges that about $350,000 in payoffs was taken in a 3½-year period by 16 officers, with some of the money passed up to former Deputy Police Commissioner James J. Martin; former Chief Inspector Joseph DePeri and former Capt. Dennis Linso. The three indicted officers are on trial with former Lts. Theodore Murphy, George Katz and Henry Pecic and former officer George Morrell. All seven were charged with racketeering and extortion. Martin and DePeri also are charged with obstruction of justice.

Earlier yesterday, William Dawley, the dapper co-owner of the now dissolved D&G Vending Co., testified that the company had had about 150 video-poker machines in bars throughout Philadelphia. After subtracting jackpots paid to players of the machines who beat the programmed odds in the machine, and splitting the remaining proceeds with the bar owners, each machine brought in up to $200 a week for D&G Vending, Dawley testified.

One hundred and fifty machines grossing $200 a week adds up to about $1.5 million a year.

To protect his machines from confiscation, Dawley testified, he had made his first payoffs to Katz in late 1979 or early 1980.

"We had a poker machine at 13th and Arch; and the bar owner had been arrested," Dawley said. ". . . I got a call from George Katz. I asked him if I could buy the machine back. He said it could be arranged.

"I would pay $50 a month for each machine in Center City," Dawley said.

"How long did you pay Lt. Katz?" Scheck asked.

"Up until John DeBenedetto was arrested," Dawley replied.

"How long did you pay DeBendetto?"

"Until his office was raided—1½, 2 years."

Dawley testified he gave DeBenedetto $3,000 a month for a year to protect the poker machines his company had throughout the city. He also had testified last year, at DeBenedetto's trial, that he had paid representatives of the Pennsylvania Liquor Control Board for warning on inspections of bars in the suburbs where he had placed machines.

He also testified yesterday that he knew the machines were being used for illegal gambling. "We never thought of doing it any other way," he said.

Dawley testified that his partner in D&G Vending had had a business arrangement with Raymond "Long John" Martorano, a convicted drug dealer and reputed member of organized crime currently on trial on murder charges in Common Pleas Court. Martorano had solicited about 15 locations for video-poker machines in South Philadelphia in exchange for one-third of the machines' profits, Dawley said.

Video-poker machine vendors Sheldon Cardmick, Harold Miller and Alan Simons also testified yesterday that they had paid protection money to Lt. Murphy, Lt. Pecic and DeBenedetto, respectively.

In addition, Eugene Boris, a rotund grocer from Manayunk, testified that he had paid Officer Morrell $200 a month for protection from arrest or harassment of his gambling operation. Morrell had been a beat officer who patrolled a section on Ridge Avenue in Roxborough.

Boris said he was a numbers operator and had learned the trade from his mother. He explained to the jury that the numbers game works along the same lines as the state lottery, but offers a higher payoff—usually 600-1, compared with the state's 500-1—for picking a random three-digit number.

Boris said Lester Barry, whom he called his numbers "banker," called him about three years ago and told him that Capt. Linso, then the commanding officer of the Roxborough and Manayunk neighborhoods in the Fifth Police District, would be sending an officer by his grocery.

"I was to give him $200 in an envelope," Boris testified.

"What were you paying for?" Assistant U.S. Attorney Howard B. Klein asked.

"For protection of the numbers operation." Boris said. He added that the payments continued for about 10 months. He said the payments stopped and he let his numbers operation lapse after Linso was identified in news reports as a target of the investigation.

Klein told the jury Monday that Barry, whom he identified as a numbers kingpin in Philadelphia, had agreed to testify at the trial under a grant of immunity. Klein said Barry had spent five months in prison on contempt of court charges for refusing to answer questions posed to him before the grand jury investigating police corruption in Philadelphia.

"Joker Poker" Confiscated

(By Edward Frost)

A dozen "Joker Poker" video game machines allegedly used for illegal gambling throughout Westchester County were confiscated Thursday by District Attorney Carl Vergari's office.

Arthur Semetis, an assistant district attorney who headed the probe, said the machines were seized from 10 locations in Yonkers, Mount Vernon, Peekskill, Eastchester, Elmsford, and Mohegan Lake.

Confiscating the machines was the first step in a six-month investigation by the district attorney, the New York State Police gambling squad headquartered in Hawthorne, and the State Liquor Authority, he said.

"No arrests were made at this time, but we anticipate bringing an investigation before the grand jury," Semetis said.

Semetis said the units display poker hands, and players bet on the displayed cards by dropping quarters into the machine. Winners normally get credits to be used to bet on a new hand.

But in some establishments, Semetis said, players were receiving payouts either in money, drinks, or raffle chances, violating the state gambling laws.

Violators could receive up to one year in jail or a fine calculated by doubling the illegal profit from the machines.

Tavern owners could face revocation of their liquor licenses and forfeiture of a cash bond filed with the SLA.

Information on the alleged gambling operations came from local police departments and the public. Undercover investigators followed up on the tips and either obtained payouts themselves or saw others taking cash in return for scoring credits on the machines, Semetis said.

The machines were seized at Shorty's Bar, 35 N. Central Ave., Elmsford; McShane's Bar, 145 E. Main St., Elmsford; The Waverly Lane Bowling Alley, 1 Tuckahoe Ave., Eastchester; Billy's Pub, 573 Gramatan Ave., Mount Vernon; The Fireside Inn, 133 Mount Vernon Ave., Mount Vernon; The Bus Stop Bar and Grill, 9 Gramatan Ave., Mount Vernon; The Shady Lake Restaurant, 620 Washington Ave., Peekskill; Isadora's, Route 6, Mohegan Lake; Yonkers Amusements, 71 Alexander St., Yonkers; and an unnamed stationery store at 160 Lockwood Ave., Yonkers.

[From the Bristol Herald Courier, July 7, 1984]

GAMBLING VENDER HAD LOSING HAND—ABINGDON COURT LEVIES FINE FOR POKER MACHINES

(By Lisa Underwood)

ABINGDON—In the first court case arising from a police raid last year at markets, restaurants, game rooms, news stands and a veteran's post in three Southwest Virginia counties, a Knoxville video poker machine vendor was fined $20,000 Friday in federal court for illegal gambling.

Federal prosecutors lodged charges against Knox Vending Co., Inc. Tuesday, accusing the company of operating an illegal gambling business by placing, maintaining and collecting money from 78 video poker machines in East Tennessee and Southwest Virginia, including machines at a Scott County, Va., grocery.

Later Tuesday, Knox Vending Co.'s board of directors held a special meeting and agreed to accept a plea-bargain offer from prosecutors.

Company president John Whitley appeared in U.S. District Court Friday morning, represented by Norton attorney Carl McAfee, and entered the company's guilty plea. He wrote a $20,000 check to the government for the fine before leaving the federal courthouse, Assistant U.S. Attorney Richard Pierce said.

Pierce said similar charges against other video game machine vendors in the area will be filed in coming weeks as a result of the raid last year in Scott, Lee and Wise counties.

According to a "stipulation of facts" document filed in court in the Knox Vending Co. case by Pierce the company intended for consumers to place wagers on the outcome of the video poker machines' games in order to win credits or points that could be cashed in with the operator of the retail establishment.

"The video poker machines are designed, purchased, placed and maintained to encourage and permit gambling," prosecutors said in the document, noting that at one time, the Knoxville vending company had 78 video poker machines in operation and 50 of them were still in operation last month at markets, restaurants and a service station in Knoxville, Clinton, Crossville and Madisonville, Tenn.

[From the Schenectady Gazette (Schenectady, NY), Jan. 21, 1984]

12 ARRESTED ON GAMBLING—STATE POLICE SEIZE 6 VIDEO POKER MACHINES IN RAIDS

(By Stephen Goldstein)

COLONIE.—State police seized six video poker machines and charged 12 people with promotion of gambling and other misdemeanors, after raids at nine locations in Albany and Rensselaer counties. The arrests follow an undercover investigation since June on illegal gambling activities. Senior Inv. Daniel Keating of the State police said yesterday.

"It's illegal to have a (video poker) machine," he said. "It can be used as a gambling device." Electronic games of skill, such as Pac-Man or Space Invaders, are illegal. Games of chance, such as the confiscated machines, are illegal, he said. "The odds are set within the machine by the proprietor or his representative." Three of the nine locations didn't have the machines, when police visited with arrest warrants, he noted.

Charged yesterday with promoting gambling, second degree, and operating a disorderly premise—a violation of the Alcoholic Beverage Control Law were:

—John W. Stapleton, 55, of Pawling Avenue, Troy, arrested at the Albia Tavern. Troy, Actress Maureen Stapleton, his sister, owns the tavern.

—Tammy L. Machnick, 18, of Dunsbach Road, Clifton Park, arrested at Machnick's Grill, Green Island.

—Ann Marie Herman, 27, of First Avenue, Watervllet, arrested at the Village Pub, Menands.

—Cheryl Ann Bertrand, 33, of Fifth Avenue, Watervliet, arrested at Glatz's Tavern, Watervliet.

—Robert Cairns, 43, manager and resident of the Esquire Motel and Lounge, Latham. Cairns is the brother of Thomas J. Cairns, the chairman of the civic center advisory board set up by County Executive James J. Coyne Jr.

—Sharon Anne Opitz, 23 of Route 236, Clifton Park, arrested at the Esquire Motel and Lounge, Latham.

—Beth L. Schwarz, 22, of Highland Avenue, Troy, arrested at the Village Pub, Menands.

—Carol A. Brust, 25, of Fourth Street, Troy, arrested at the Terminal Tavern, Troy.

—Rhysa L. DiPalma, also 25, of First Street, Troy, also arrested at the Terminal Tavern.

—Timothy Hickman, 30, of Hudson Avenue, Green Island.

—Walter W. Adams, 32, and Cecile M. Adams, 30, both of the Hudson River Road, Waterford, arrested at Adam's Rib, Troy.

Stapleton, Machnick, Bertrand, Schwarz, Hickman and the Adamses also were charged with possession of a gambling device.

"All information in the investigation, if there are convictions, will be given to the state Liquor Authority," Keating said, since the SLA regulates the taverns involved in the arrests.

The six machines confiscated include four Joker Pokers, a Casino Game and a Draw Poker, all marked, "for amusement only." Police plugged in one game to show its video display: "Be a big winner. Play Poker with Hi-Low Double-Up. Don't go by. Give it a try. Take a Shot."

A player puts quarters into the machines to play for pairs or triples and to earn points. Keating explained. The player may have an option of receiving money at 25 cents per point, he said. It's illegal, however, to exchange money as a payoff from these machines, he added.

"I doubt very much, on the state level, we could go back to the manufacturer," he said, but a local distributor of these machines is open to prosecution. "I'm sure these machines were distributed by somebody locally," he said, "but I understand they did not come from the same distributor."

[From the Newsday, July 28, 1983]

Cops Investigate Video Card Games

(By Sarah Pollock)

Nassau police, saying that the invention of video card-game machines has encouraged illegal gambling, announced yesterday that they are launching a major investigation into both the new devices and more traditional slot machines. They say distribution of the machines may be linked to organized crime.

In the past month, Nassau police have arrested three men and confiscated 12 slot machines, both conventional and video. "We know of other cases that we're investigating, and we hope to make seizures of the machines. Arrests may follow," said Donald White, commanding officer of the Nassau County organized crime squad.

In Suffolk, law-enforcement officials have been investigating the devices for at least a month. On June 29, police confiscated from 10 taverns and clubs 14 video card-game machines that were being used for gambling, said Arthur Penny, a spokesman for Suffolk District Attorney Patrick Henry. No arrests were made, he said.

Gambling on the machines is a misdemeanor punishable by up to a year in jail, police said.

Nassau police said they are investigating a possible connection between organized crime and the distribution of the machines. An investigator for the New York Task Force on Organized Crime said state investigators share that concern. The task force is investigating who controls the entire video game industry, not just the new games, he said.

Most of the gambling done on the machines in the state occurs on Long Island and New York City, said the investigator, who asked not to be identified. Police estimate profits from each machine can average $2,000 a week.

The concern has been triggered by a new type of video game, which takes the concept of gambling on a slot machine into the age of high technology. In the new game the player plays traditional gambling card games such as poker and blackjack on a video screen.

Some of the machines are clearly illegal because they have devices to return quarters to the players who win, White said. Others, however, can be rigged to give the players credits, which then can be collected from the owner of the establishment in which the machines are located, he said. "Definitely it's an inside thing. If you walk in and play the machine, they're not going to come in and say here are your five quarters. You've got to be known," White said.

But the sales manager of Coin Machine Distributor Inc., a video game distributor in Garden City, said the video card games are meant purely for amusement. "We handle a video card game. It does not pay out and never will pay out," said the manager, Randy Taylor. However, he added, "once the machine gets put on location, we can't be standing there watching. What can we do? . . . I don't think it's any big secret what's going on."

The controversy over the games is not limited to Long Island and has sparked dissension within the video game industry itself, said Kathy Brainard, feature editor of the video industry trade magazine RePlay.

The magazine surveyed its subscribers in its past two issues and found that manufacturers were pleased with the video card games, which attract an older clientele than the fast-moving video war games, she said. But many of the vendors acknowledged that the main appeal of the new machines was winning money, and many said they were worried the games would give the already beleaguered video game industry a bad name.

[From the Dallas Times Herald, Apr. 13, 1984]

POKER MACHINES SEIZED

(By Rochelle Riley)

In what was described as a crackdown on a new high-tech form of gambling, Dallas police Thursday night raided eight clubs and bars in search of illegal poker video machines.

The raids climaxed a six-week undercover investigation by vice officers, who made 12 arrests and confiscated 13 machines. Police said most of those arrested were operators and managers of the clubs.

The five-foot-high poker machines resemble other video games, but differ from most in one respect: players can win money playing them. The popular machines are the subject of studies being conducted by a U.S. Senate subcommittee and the Texas Department of Public Safety.

Thursday's raids sent video game enthusiasts scurrying for exits, although patrons of the bars were not the officers' real targets.

"The officers asked everybody to stand still and bear with them," said John Lawrence, a sheetrock worker who was playing pinball when the officers moved into Rusty's Pool Hall at 3039 Northwest Highway. "I didn't argue."

"I thought it was a joke," said Jeff Rogers, a North Dallas sales representative who was celebrating his birthday with his friends at Le Bicyclette at 300 Northtown Mall when about 20 vice and tactical officers arrived about 7:30 p.m.

The investigation targeted clubs where patrons play the machines regularly, said Lt. E.W. Smith of the vice squad.

"You can see by the trash and the number of wrappers from (rolls of) quarters that people have been playing a lot on these machines," Smith said. "On some of these hands, you can bet $10 and get $41. I had a man tell me last night he lost $180."

The game allows a patron to insert money to be dealt a hand. If the hand is a pair of aces or better, the machine pays credits which can be cashed in with the bartender.

But the video poker games seemed harmless enough to patrons at Le Bicyclette. "This is really a nice place," said Peggy Bratcher, a North Dallas resident who was among the 25 people in the bar when officers showed up.

Others seemed amused by the excitement of a real-life police raid. "It was real smooth—just like TV," said Richard Henderson, a patron at Rusty's Pool Hall.

As about 35 vice and tactical officers made their rounds, a Mayflower moving van followed them from place to place to haul the machines back to the station.

DALLAS POLICE SEIZE 13 POKER MACHINES

(By Melinda Henneberger)

Dallas police confiscated 13 video poker machines they say were used for illegal gambling and arrested 12 persons named in arrest warrants Thursday night in a raid on eight Dallas establishments.

Police said they also had taken in hundreds of dollars in quarters that were in the machines.

Although the machines are marked "For Amusement Only," police say they are used for gambling. The raid was the result of a six-week undercover operation, they said.

Police confiscated machines from Rusty's Pool Hall, 3039 W. Northwest Highway; Webb's Lounge, 9745 Harry Hines Blvd.; Maple Point, 5414 Maple Ave.; Joe's Place, 1615 N. Industrial Blvd.; Le Bicyclette, 300 North Town Mall; Veterans of Foreign Wars Post No. 4477, 300 S. Smith St.; VFW Post No. 2414, 2706 W. Davis St., and VFW Post No. 6969, 10420 C.F. Hawn Freeway.

At the Smith Street VFW post, a police officer answered a phone call from a man who said he was the owner of the video machines. Thinking he was talking to an employee, the man said he had seen reports of the raid on television and was "getting a little nervous," police said. Before the policeman revealed his identity, the officer got the man's name and phone number, police said.

When police entered Le Bicyclette at 7:30 p.m., club patrons thought it was a joke.

"They came in from all directions yelling, 'Police, this is a raid,' " said Gregory Pitts, one bar patron. "Nobody knew what was going on. They told me it was something about illegal gambling paraphernalia."

Another patron compared the poker machines to regular video games.

"I played them before, but I never got any money. It's like Pac-Man," said Jeff Rogers, a Dallas jewelry sales representative.

But vice Sgt. Don Marks said it's not the machine, but how it is used that makes it illegal.

The machines, called Joker Poker and Texas Draw, "tell you how many credits you get for your hand," Marks said. "And each credit is worth a quarter. It's easy to lose $300 or $400 in an hour's time."

Depending on the machine, the patron can bet anywhere from a quarter to $20 on a single hand, he said.

"When you're ready to clear the machine, you call the bartender to pay you off," he said.

"One informant told us he's hooked on them. He said he had lost $18,000 in the last nine months," said vice Lt. E.W. Smith.

[From the Los Angeles Times, Dec. 13, 1983]

400 VIDEO POKER MACHINES SEIZED; 15 PEOPLE ARRESTED

(By George Ramos)

Los Angeles vice detectives Monday broke up a Van Nuys-based operation that illegally imported French-made video poker gambling machines into the state. Fifteen people were arrested and about 400 of the devices were seized.

As many as 900 illegal machines, with a potential of earning $75 million a year, are believed to be in California, according to Capt. James Docherty of the Police Department's Administrative Vice Division.

Police said the operation worked under the guise of the L.A. Leasing Corp., which allegedly made verbal agreements with bars and liquor stores to place the machines in various establishments in Los Angeles, Orange, Riverside, San Bernardino, San Diego and Ventura counties in Southern California and in San Mateo County in Northern California. Three hundred of the machines were seized at the corporation's warehouse in Van Nuys, and the remainder were picked up elsewhere.

Docherty said the machines, commonly referred to as the "double" and "super double," are similar to video poker machines in Nevada and New Jersey casinos.

"The only difference being, instead of paying off in cash, these machines pay off in points or replays," he said. "The points accumulated (during the poker hands) can then be 'cashed in' for prizes that range from cases of beer to trips to Las Vegas," Docherty said.

Docherty said the 15 suspects, all employees of L.A. Leasing, were booked on suspicion of conspiracy to distribute slot machines. Three officials of L.A. Leasing, thought to be in Europe, are being sought for questioning. None of the suspects was immediately identified.

[From The Washington Post, Sept. 22, 1984]

FBI CHARGES FIVE IN ALLEGED SALE OF COUNTERFEIT VIDEO ARCADE GAMES

(By Ronald Kessler)

The FBI yesterday announced the arrests of five persons on charges that they illegally made and distributed at least $1 million in counterfeit video arcade games, including Pac-Man, Ms. Pac-Man, Galaga and Time Pilot.

The arrests were the result of a 13-month investigation that included the use of bogus FBI company called Fast Switch Amusements Inc., with offices at 1050 Connecticut Ave. NW, according to Norman A. Zigrossi, special agent in charge of the FBI's Washington Field Office.

FBI spokesman Ronald Dervish said yesterday it was the first time the FBI had used a "sting" operation in an investigation of video game counterfeiting. The suspects, who were arrested in Washington and elsewhere, allegedly sold the counterfeit games to Fast Switch Amusements.

Zigrossi said the investigation has recovered about $1 million in counterfeit games. Nationwide, he said, legitimate manufacturers and dealers lose an estimated $2 billion a year to video game counterfeiters.

The five suspects, arrested Thursday and yesterday, are charged with interstate transportation of stolen property.

According to Zigrossi, those arrested purchased legitimate games in the United States, where they removed the electronic components and shipped them to Japan. There, the counterfeiters pulled apart the components and copied them so they could be reproduced. The counterfeit games were then made in Japan, Hong Kong or Taiwan and shipped to the United States or to Canada, where they were smuggled into the United States, according to Zigrossi.

The FBI began the undercover investigation in July 1983 by starting Fast Switch Amusements. It consisted of an empty room used primarily as a mailing address, according to Dervish.

Arrested were:

Farshad Soltani, 25, of Winchester, Mass.; Virginia and Gary Tewmey, both 34, of Smyrna, Tenn.; Michael Huang, 26, of Baldwin Park, Calif., and Gary Robbins, 42, of Lebanon, N.H.

If convicted, they each face a maximum penalty of 10 years in prison and a $10,000 fine.

An arrest warrant was also issued for Ikuo Suyama, 54, of Tokyo. The FBI described Suyama as a producer of counterfeit video arcade boards.

Chairman **ROTH**. Despite these crackdowns, significant problems remain for police departments and other authorities attempting to remove machines. As long as the machines are in use, there is societal damage everyday. We have talked to those who believe that video gambling is at least partly responsible for the alarming increase in compulsive gambling, which has occurred over the past few years, costing its victims their jobs and sometimes their families serious problems, and leading to criminal behavior, such as insurance fraud, threat, and embezzlement.

The widespread use of these machines for illegal gambling also creates an enormous potential for public corruption. Police officers and other officials are bribed by distributors and operators to look the other way instead of cracking down on this illegal activity. As a matter of fact, in a town nearby my home, Philadelphia, a number of high-ranking police officials were convicted of accepting such bribes. It is also safe to assume that almost all of the millions of dollars in profits from video gambling are untaxed, which is a major drain on the economy at the expense of our law-abiding citizens who pay their taxes. Each of us must pay more because of the existence of this extensive underground economy, and since one machine in a popular location can literally generate thousands of dollars a week, the money to be lost is enormous.

Finally, the involvement of organized crime in the video machine industry will probably be mentioned by several witnesses this morning. Certainly, the lucrative nature of this business invites the attention of organized crime and the profits from these machines could easily be used to finance other criminal activities, such as drug smuggling and loansharking. A deeper investigation of organized crime infiltration into this industry and its role in the distribution of counterfeit video poker machines is still being developed by the subcommittee staff.

I would have some other material, but I will incorporate it without reading it, if there is no objection.

[The material referred to may be found on p. 110.]

Chairman Roth. First, I would like to call on Senator Rudman for any comments he may care to make.

OPENING STATEMENT OF SENATOR RUDMAN

Senator Rudman. Thank you very much, Mr. Chairman. I want to commend you for calling this hearing this morning to at least start bringing attention at the Federal level to the problem. I would just address a different dimension of the problem.

I recall very well in the mid-1970's as attorney general of the State of New Hampshire when there was an effort made to bring casino gambling to that State. When the research by those who opposed that move was completed, the most significant fact that stood out in that investigation was that the people who tended to spend the money on things like slot machines and things of that sort, in most cases, were people who could least afford it.

I notice in some of the statements from the Tennessee authorities there is evidence here where a young girl of the age of 11 wrote to the Governor of Tennessee complaining that her mother was spending all the grocery money, if you will, on these video gambling machines.

The insidious thing about the machines is not only the organized crime aspects, which in my view, are potentially very serious, but more importantly, the fact that money will be spent on video gambling by those who can least afford to spend it. In response to the argument that people may have a right to do that, the fact of the matter is that that kind of gambling really is contrary to the intent of the law in most States.

Second, by putting these machines in places where people have easy access to them, you encourage people to waste money which they can ill-afford to waste.

I hope this hearing is the beginning of some effort at the Federal level to control this form of illegal gambling which I believe is penalizing those who can ill-afford it.

Chairman ROTH. I think your point on accessibility is a very critical one because the fact is, we are finding these in corner grocery stores, in bars so that it is very accessible and, as you say, unfortunately a lot of people are utilizing it who cannot afford to.

Senator Nunn.

OPENING STATEMENT OF SENATOR NUNN

Senator NUNN. Mr. Chairman, I would like to put my prepared statement in the record and add just a brief comment.

I congratulate you, Senator Rudman, and the majority staff for bringing this matter to the attention of this subcommittee, the Senate, and the American people. It seems to me that point on accessibility also goes to the question of age of the participants. Every arcade that I have been in has very young people present. Most of the time I have gone there to grab my young one by the ear and bring him out, not because there is anything inherently wrong with it, but because young people tend to spend so much time in it.

Until you started these hearings and this investigation, I did not realize they had gone to the extent of paying off on the machines that they obviously have. I don't know how widespread that is. That is going to be of considerable interest, I think, to our subcommittee and also to a lot of parents because we have young children who do spend a lot of time with these machines.

So I congratulate you for bringing this subject to our attention, and I look forward to the hearings.

Also, I would like my entire statement be put in the record.[1]

Chairman ROTH. Without objection.

At this time, we will call forward Mr. William Holmes who is a special agent of the FBI. Mr. Holmes, will you please come forward? Under the rules of the subcommittee, all witnesses must be sworn in. So would you please raise your right hand?

Do you swear the testimony you will give before this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. HOLMES. I do.

Mr. STOWE. I do.

Chairman ROTH. Would you gentlemen both be seated. I would point out that Mr. Holmes is the Bureau's technical expert on these machines. He has spent a great deal of time and effort traveling around this Nation to inspect machines seized by State and local authorities and to testify before grand juries and during criminal trials.

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[1] See p. 43 for the prepared statement of Senator Nunn.

Mr. Holmes is going to use several machines to describe how they operate and what sort of features are used to disguise their illegal use.

Before you do that, Mr. Holmes, I would ask you to also introduce the person accompanying you and then please proceed.

Mr. HOLMES. Special Agent Walter Stowe.

Chairman ROTH. Please proceed with your testimony.

TESTIMONY OF WILLIAM L. HOLMES, SPECIAL AGENT, FEDERAL BUREAU OF INVESTIGATION, ACCOMPANIED BY WALTER STOWE, SPECIAL AGENT, FEDERAL BUREAU OF INVESTIGATION

Mr. HOLMES. Yes, sir. A brief introduction of myself, my name is William L. Holmes. I am a special agent currently assigned to the gambling unit of the document section of the FBI Laboratory in Washington, DC. I have a prepared statement that is being introduced into the record, as I understand.

Chairman ROTH. It will be included, without objection.[1]

Mr. HOLMES. I have been employed as a special agent for approximately 16 years; 10 of those years I have been with the laboratory. My primary function was to examine material that is submitted to us by State, local, and Federal agencies and is primarily in the area of gambling, which includes bookmaking, gambling paraphernalia, altered cards, dice, casino-type games, gambling devices, carnival games, and currently the video gambling devices.

If I may, I will give a demonstration on the devices.

Chairman ROTH. Please proceed.

Mr. HOLMES. The first device is a Draw Poker device manufactured by A-1 Supply which is located in California. The primary principles of all of these devices fit into the general definition of a gambling device, and that is a consideration which is the amount of money or coins required to activate the device; then the device itself depicting a game which is based predominantly upon chance; and then the reward aspect, in this case, would be the credits that are awarded for winning combinations which are depicted or specified by the device.

I will give a demonstration of the play characteristics of each device and then the operational characteristics which lend themselves to a gambling device.

On this space screen, you have a four-digit meter in the upper left-hand corner and that is labeled points. In the upper right-hand corner is a two-digit meter and that is labeled bet. I will simulate the insertion of coins by activating the coin mechanism inside the device. For each coin I insert, a credit or point is recorded on that credit display meter. I, as a player, now have the option of playing all of those, in this case one to eight credits or coins. I press the play button and a credit is transferred from the three-digit credit display meter over to the bet meter. I now press the deal button and five cards will appear on the screen.

Now, I, as a player, have the choice of discarding any of these cards of which I will discard the eight of clubs, queen of clubs, three of clubs and the eight of spades, and then press the draw button. I have won. I had a pair of aces.

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[1] See p. 44 for the prepared statement of William L. Holmes.

Note this device will only pay off on a pair of aces or better. These devices can be changed by the operator or vendor to pay off on jacks or better, queens or better, et cetera. This device pays off on aces or better.

Senator NUNN. May I ask a question here, Mr. Chairman? In other words, you are not playing against another hand; you are simply playing against an ace or better hand. Is that right, overall?

Mr. HOLMES. That's correct. It is just like a slot machine. It has the same characteristics of a slot machine. The slot machine designates what the winning combinations are and will only pay off on those designations. This applies here; any pair of aces wins one skill point; any two pair wins two skill points; any straight flush wins 50 skill points.

Senator NUNN. It is very poor odds if it pays off only on aces, isn't it?

Mr. HOLMES. That is correct; even money.

So the machine, as I say, has the same characteristics of a slot machine—you have consideration, a game based upon chance, and the reward. There is some misconception as to what reward is because it is not usually defined. As mentioned previously, reward would be the dispensing of coins to a player in Las Vegas on a slot machine or one of these devices. But these credits also have the same value.

If you noted that when I inserted a coin, a credit was registered in the upper left-hand corner. When I had that pair of aces, those credits were also registered on that same meter, accumulatively. Therefore, the machine doesn't make any distinction between a credit and a coin, so they are of the same value. So this machine, draw poker by A-1 Supply, has the same characteristics of a slot machine—consideration, chance, and reward.

This was one of the earlier video draw poker devices in that it only had the game of draw poker. It did not have jokers wild; it did not have a double-up feature.

The next phase, this is a double-up poker device by Omega out of California. I will also insert coins, simulate the insertion and they are registered on a replay meter.

You also notice the manufacturers of these devices will label the same characteristics differently in order to disguise the true intent. This one is labeled points; this one is labeled replace and we have credits on the last one. They all mean the same thing. They are something of value which the player uses to continue to play the game.

The same features exist here. I press the play button, and the deal button. This pays off on queens or better. So I will discard and draw. I have a pair of kings. Now I have an option. I, as the player, can elect to go for double or nothing or take what I have won. I go for double. I now have to decide what value that card is that is face down. If it is a two through seven, it's low. If it is an ace through nine, it's high. The eight is a house card. I will choose high, however. I win. Well, I have three for three.

The game is over. I now have to insert coins in order to play the hand again.

Senator RUDMAN. Mr. Chairman?

Chairman ROTH. I am going to yield for one question and then I am going to ask we let him complete.

Senator RUDMAN. I wanted to ask whether or not the so-called retention for the house odds were adjustable by the distributor or by the actual location, the bartender in a particular bar, for instance?

Mr. HOLMES. Most of these machines, the house retention is based upon the type of hands that they pay off on. As an example, in the true game of draw poker, a 10 high hand could win. On these devices, they specify on the double up from Cal Omega, queens or better; on the A-1 Supply, it is aces or better. So there are approximately 2,600,000 possible winning combinations in a deck of 52 cards. These machines only pay off on approximately 284,000. So the retention ratio can be altered by giving more winning combinations, such as jacks or better, or reducing the number of winning combinations and increasing the house percentage.

On the A-1 Supply machine, it is approximately 22 percent to 25 percent. On the Omega Double-Up it is approximately 15 percent to 18 percent. So the operator does have that option.

Senator RUDMAN. Thank you, Mr. Chairman.

Mr. HOLMES. And that is done by what is called a dip switch, which is a dual inline package, and it is a series of usually eight switches, on and off positions. By the on-and-off combinations of those switches, it allows the operator to enable or disable certain features of these devices.

Then the next phase of development is the Dwarfs Den by Electro Sports. An example of this in the Dayton, OH, area, where these draw poker devices were quite prominent. When the Supreme Court ruling came out and stated that draw poker devices were illegal, gambling devices, per se, Electro Sports came up with Dwarfs Den and this was introduced in the Ohio area.

You notice you have five figures. There are four different colors and each color has numbers 1 through 13. I will also insert, simulate the insertion of coins. I have three. I press the play points button. I have now bet two. Press the start button. I have five images—blue, purple and green. I press the Zap button and then replace and the game is over.

Now, the similarity here is that they use the exact characteristics in the game of draw poker. You have five images, numbered 1 through 13, which is identical to your four colored suits in a 52-card deck. The winning combinations, they say a thin twins is a pair of aces. A generation is a straight. Blues Brothers, The Red Gang, Purple Gang, that's a flush. They just disguise what the winning combinations are with other names. The physical nomenclature of the device, they have done the same thing. Instead of your discard button, you have what is called zap buttons. You have play points; you have a start button instead of deal. You have a replace instead of draw. You have a hold instead of cancel, and you have an unzap. All of the nomenclatures of this device are identical to the draw-poker device. You have identical games; just different images.

The last machine is a Just 4 Fun. It is manufactured by Kramer and this is the state of the art today. It has what is called a dual-program concept. It is now in the gambling mode. I have just simulated inserting coins and I have a choice of four different games—Riverboat Poker, Acey-Deucey, Black Jack, or Skill Draw.

If I choose to play Riverboat Poker, I can bet one, two, three—I bet all five credits or points. As I increase my bet, the payoff ratio also increased. Now, this is not the changing of the odds. That bet is merely a multiplier of what the original reward would be for that winning combination. Press deal button. I have jokers wild. I have a pair. The game is over.

The unique characteristic of this device is that if I am law enforcement, and I go in and seize this device after I have been paid off on it or else have played it, that it will change over into an amusement mode once I unplug it after 12 seconds. When you plug it back in, you don't have a gambling device unless you are able to put in the combination in order to get it back to the gambling mode.

Chairman ROTH. Did we lose our operator?

Mr. HOLMES. I went back and unplugged the device. It is now in a tilt mode which is on a time delay and it will revert back to the play mode. Now it is in the amusement mode.

You notice it says points, games and play. If I put a quarter in, I will get 100,000 points to play off and five hands to play it off in and all I will win is points, and if I get an accumulation of points, I will be able to enter my initials with that score on the TV screen, but in order to get it back into the gambling mode, I have to wait until it gets to this attract mode; once it is in this attract mode, I can insert the combination. I am now back into the gambling mode.

Now, the operator would have the code so that in case it is unplugged or if some other malfunction, he can put it back into the gambling mode and not interrupt the players.

These are the four basic types that are currently in use. That is the play characteristics. They all have consideration, the new models have multiple coin features, meaning that for extra coins I can get jokers wild. You have a double-up feature which will only come into play if I win. On this particular device, which is the A-1 Supply Draw Poker, I can insert 9,999 points. On the Omega Double-Up, I can insert 999 points. On the Electro Sport, 9,999, and I believe 999 on the Kramer.

The operational characteristics which lend themselves to a gambling device are also apparent in these devices. In the A-1 Supply Draw Poker, there is a 6-digit mechanical meter inside of the device. The Electro Sport Dwarfs Den has two mechanical meters. The first meter records the number of coins that are inserted into the device. The second meter records the credits that are removed from the credit meter, which is located in the upper left-hand corner.

The mechanical meter inside of this draw poker device records those credits that are removed. On the side of the A-1 Draw Poker device is a key-operated switch. That is referred to as a knockoff switch. When I activate this switch, it will remove these credits that are on the credit display meter. Since I don't have a key, I will short it out. You heard that those credits were being recorded on that 6-digit mechanical meter. This is the meter that the credits would be recorded on so that if the bartender or operator is paying his players for the credits that are unused, then the bartender can be reimbursed. When their route man comes in, he takes this reading and substracts it from the last reading and that is what he pays the bartender because that is what the bartender reimburses the players for.

On the Omega Double Up, it also has a key knockoff switch on the right side of the device. It only has one mechanical meter inside of the device which records the coins that are inserted into the device. I will knock off the credits. They are now zero. This device is a little more sophisticated than the previous one, in that it only has the mechanical meter for recording the coins in. By activating the accounting display, I have brought up accounting data for this particular machine, meaning the number of coins in; it is an electronic meter, showing the games played and credits awarded.

In some areas, for instance the *Gilbert* decision, which is an appellate decision out of Maryland, has three characteristics which classify it as a gambling device. That's an odds mechanism, a knockoff switch and a knockoff meter. All of these games that are depicted here fulfill the odds mechanisms requirement. All of these machines also have a knockoff function, but this machine here does not have a knockoff meter, per se, meaning that if I was law enforcement, if I were to walk in here and bring up this accounting display, and I did not know any better, there would be no knockoff meter here.

I just pressed a combination of 142553 on the discard buttons. I now have my knockoff meter. It appeared on the screen. So manufacturers are now disguising the true functions or the availability of those knockoff meters.

As I mentioned before, the Electro Sport device does have two meters—one records coins in and one records credits removed, and it has a knockoff button in the rear.

I have just switched a toggle switch on the inside of the Just 4 Fun device, and it displays an A-1 version 79. It has two meters. One is the points in and one is the credits knocked off. The thing about this device is, when it is in the amusement mode, the knockoff switch does not work, and you cannot bring up these accounting functions for the gambling mode. I will only bring up the amusement mode data. So that if the law enforcement did not have the combination, they would not be able to bring up the necessary elements in order to make it a violation.

I mentioned the *Gilbert* decision in Maryland where they said it had to have the knockoff meter. If it didn't have the knockoff meter, it is not a gambling device, per se. As a result of that, on these older machines where two mechanical meters were installed, the vendors designed new meters. Law enforcement now has to redefine what a meter looks like.

This circuit board is a meter. It may not look like it, but it is a meter. It has the necessary memory capabilities, and it is installed inside of the device in lieu of a mechanical meter. When I as the vendor or the route man wish to take a reading, I take a circuit board that has an LED readout on it, and I plug it into the unit and it will tell me how many credits were knocked off since the last time. I have a button here by which I can clear it so that the next time I read it, it's going to only contain the data for the period between the last time I read and the current reading.

This is another characteristic of a meter, meaning that they can take all kinds of forms or configurations and unless the individual investigator is knowledgeable, he is not going to know that that is an actual meter.

The same thing applies here, just plug in the circuit board and get your LED readout. So those are actually meters.

It would be the same thing if I used the analogy if you take a mechanical meter which is in each of these devices, put a tape over it, it is still going to record that data in that meter; even though I can't see it, it is still there. If I remove the tape, I take the reading.

The same thing applies to these new meters. Even though I have not installed the LED readout portion, it is still recording the data. All I have to do is insert this, which is the same thing as removing the tape, and I can get the readout.

Those are basically the elements or characteristics of these devices, except that the current trends for the newer devices and the technology involved is that you are not going to have any metering systems at all; you are going to have no accounting functions or displays like I have on the Just 4 Fun device. So as a law enforcement officer, if I were going to even open up the device, I would not find any of the elements, which many of the current Supreme Court decisions and appellate decisions specify, meaning knockoff switches or knockoff meters. They won't be there.

There is a hand-held device which is very similar to a calculator. All I would have to do is walk up close to that device and activate it. I will knock off the credits and record them in that device. It will also record all other data in that device—coins in, credits awarded, games played, so forth. I can then take this back and plug it into a computer and get a hard copy. So that machine will not have any of the elements that are currently specified in many of the statutes that are in effect today. Thank you.

Chairman ROTH. Thank you, Mr. Holmes. I think it is perfectly obvious that we have a serious problem. What is happening is high tech is being used to avoid the law.

Mr. HOLMES. Yes, sir.

Chairman ROTH. In a very real sense, all these are gambling devices, aren't they? They are not based on skill in any sense of the word. Some people would argue we can do the same thing with Pac Man, or so forth. How long does it take to play one of these games?

Mr. HOLMES. There are several characteristics, if I may, expound upon that question, that differentiates these machines from an amusement device. One of them is length of time. Your slot machines and these video display devices are relatively short in time; anywhere from 5 to 10 seconds.

Chairman ROTH. These are sort of slot machines in sheep's clothing.

Mr. HOLMES. That is correct. It has the same characteristics as electronic slot machines. Your Pac Man devices, using that as an example, a skilled player can play that for quite a long time.

Chairman ROTH. Let me ask you, we are not talking about peanuts, how much money can be lost in an hour with one of these games?

Mr. HOLMES. Well, I think that depends a lot on the individual player. For example, on the machines here, you can bet from 1 to 8 quarters, and if you bet the 8 quarters each and every time and you can play 10 seconds, well, that is 6 games a minute; it will be 600 an hour, and if you lose 25 percent of those and you have won 75 percent of that 600 times——

Chairman ROTH. The point I want to make is that big money can be lost on one of these on a single machine; isn't that correct?

Mr. HOLMES. Yes, sir.

Chairman ROTH. What is the maximum you can lose in an hour?

Mr. HOLMES. Well——

Chairman ROTH [interposing]. Theoretically, you are saying 10 seconds a game; six games a minute.

Mr. HOLMES. Yes, sir.

Chairman ROTH. It would be 60 times that.

Mr. HOLMES. You would lose probably around $600 if you fed the machine quick enough.

Chairman ROTH. So you go to the illustration of Senator Rudman of the person who goes in the store with a few dollars, it won't take her long to lose the grocery money.

Mr. HOLMES. That's correct. You have to realize, as I mentioned before, there is a retention ratio of which everything that player puts in, he is going to receive 75 percent back over the long run.

Chairman ROTH. You mentioned this has the same timeframe as a slot machine, about 10 seconds, as a distinction from the games of skill—Pac Man. How long do they roughly take?

Mr. HOLMES. The Pac Man?

Chairman ROTH. Yes; or some of these so-called games of skill.

Mr. HOLMES. If you are a skilled player, you can play Pac Man for half an hour, hour, a couple hours, because that is a game of skill, where you are manipulating buttons, balls, levers, relative to a field of play and your capability of that maneuverability is what dictates how long you play.

On these devices, the player has no input as to what the final outcome is going to be.

Chairman ROTH. So there is really no skill involved at all; it depends on what the operator sets up as your odds; isn't that correct?

Mr. HOLMES. No, sir, there is some skill involved. For instance, the application and knowledge of law of probability. In a true game of poker, you have some skill elements—psychology, bluffing, raising, money management, knowledge of laws of probability—and then the fact I, as a player, can drop a bad hand. All of these elements do not apply to an electronic video display device. You can apply the knowledge of laws of probability, but the effect that has on the final outcome of play is minimized by the design of the device, meaning it is only going to pay off on certain winning combinations.

Chairman ROTH. That is the point, basically the operator can decide the rate of retention; is that correct?

Mr. HOLMES. To a point.

Chairman ROTH. In contrast to legalized gambling, in the case of Nevada and New Jersey, does the State set the rate of retention?

Mr. HOLMES. Yes, sir, it is my understanding that the Casino Control Commissions of both Nevada and Atlantic City have a maximum of 15 percent retention or house percentage, and it can go down to 3 percent.

Chairman ROTH. Do you have any guesstimate of what the normal retention percentage in one of these games is?

Mr. HOLMES. On the first one, which is the Electro Sport, that is about 22 to 25 percent. On devices that have other elements or features, such as double up or wildcards, they will be reduced to approximately 18 percent.

Chairman ROTH. As I understand your illustration, what you are saying is that the manufacturers are really using high technology to constantly keep ahead of the statutes as a means of avoiding the laws which make gambling illegal, or that is part of the problem; is that correct?

Mr. HOLMES. They are using high technology to circumvent some of the published elements of laws that are currently in effect; yes, sir.

Chairman ROTH. Has any thought been given to some kind of a model State statute to help avoid this result?

Mr. HOLMES. I don't know.

Chairman ROTH. In what States have these machines been declared illegal?

Mr. HOLMES. Well, there are several State Supreme Court rulings. One is Ohio; one, I believe, is Montana, Pennsylvania; then you have an appellate court decision in Maryland; you have one in Tennessee, which is a current one. I believe those are the only States, to my knowledge, that have any judicial statement regarding these machines.

Chairman ROTH. I have one more question, and then I will defer to Senator Rudman.

When you got to Dwarfs, the third one, that represents exactly the same as cards except they use Dwarfs and colors as a substitute; is that correct?

Mr. HOLMES. That is correct. They have many different types; it is not only just Dwarfs.

Chairman ROTH. The law is so technically construed that by that simple device, you can avoid the law?

Mr. HOLMES. Yes, sir; it has been done in Ohio.

Chairman ROTH. Senator Rudman.

Senator RUDMAN. Thank you, Mr. Chairman. I couldn't help thinking, Mr. Chairman, as we watched that display, particularly of the memory devices which had intermittent storage, maybe Senator Nunn on the Armed Services Committee—I am on Defense Appropriations—and the chairman has had many hearings on all these weapons systems that don't work—maybe we ought to put these people in touch with the Pentagon. It's incredible, the technology. What do they sell these things for?

Mr. HOLMES. The older machines are now going for approximately $1,400 to $1,800, and then the newer ones anywhere from $4,000. They have laser technology. It is also used in newer machines.

Senator RUDMAN. Laser technology?

Mr. **Holmes**. Yes, sir; they have a laser device that has a display screen on top which depicts a poker game taking place on a TV monitor. The player playing the device—it is an attempt to bring the players into the game. For instance, the player is depicted on the screen and will tell the player playing the device you are taking too long or something of that effect. A waitress will come around and ask if you want a drink and then the normal playing of the device, meaning the actual dealing of the cards, is on another screen in the same device.

Senator **Rudman**. Does the Bureau have any estimate as to how long it takes the investment in one of these machines to be paid off?

Mr. **Holmes**. No, sir, not to my knowledge.

Senator **Rudman**. Does the Bureau have any statistics on approximately how many of these are in use in States other than the two in this country where this type of machine would be illegal?

Mr. **Holmes**. The only information I have along those lines would be from the cases that are submitted to me for examination, or testimony. I have had cases submitted from approximately 23 States, and I have examined or testified on over 5,000 machines, and those are just on cases submitted to me.

Senator **Rudman**. So it would not be beyond the realm of probability that there are tens of thousands of these machines in existence around the country.

Mr. **Holmes**. Yes, sir.

Senator **Rudman**. Does the Bureau offer continuing assistance to State district attorneys, local police departments, State attorneys general who are trying to crack some of these cases?

Mr. **Holmes**. Yes, sir; my function in the laboratory is to assist any duly elected law enforcement agency.

Senator **Rudman**. So to the extent any local law enforcement agency wishes to initiate an investigation or prosecution, they have the resource of your laboratory to assist them in the presentation of evidence?

Mr. **Holmes**. That's correct.

Senator **Rudman**. I would just like to commend you for very excellent testimony. I said to our staff counsel during your testimony, it is a pleasure to have a witness before us that is obviously an expert. We have a lot of people tell us they are experts, but they don't always turn out that way.

Mr. **Holmes**. Thank you.

Chairman **Roth**. Senator Nunn.

Senator **Nunn**. Thank you. Just a couple of questions. What is actually a violation of Federal law? Gambling itself is not a violation of Federal law, is it?

Mr. **Holmes**. Well, I am not able to make a statement as to what is a violation or not. I do know in most cases there has to be a local violation in order for a Federal violation to take place. If these machines are not defined locally, then they couldn't be a Federal violation.

Senator **Nunn**. Well, is it a Federal violation to transport a gaming device across State lines?

Mr. **Holmes**. There is a Federal statute of that nature; yes, sir.

Senator Nunn. So gambling itself is not a Federal offense, as far as you know? In other words, if you walked out as a Federal agent and you saw some people playing blackjack on the corner out there and swapping money, is that a Federal violation?

Mr. Holmes. No, sir, that would be a local violation.

Senator Nunn. But if they were transporting one of these devices across the State line, let's say from the District of Columbia to Maryland, that would be a Federal violation?

Mr. Holmes. As I stated before, sir, if they are not defined as gambling devices by that State, then there is no violation.

Senator Nunn. Let's assume Maryland has a definition that these are gambling devices; would that make it a Federal violation?

Mr. Holmes. Yes, sir; I believe it would.

Senator Nunn. Is there a Federal law now that requires licensing or any kind of permit to be in the gambling business? Is there any Federal regulation of gambling?

Mr. Holmes. I believe there is a Department of Justice regulation where manufacturers of gambling devices must register with the Department.

Senator Nunn. Is that requirement only for those who actually manufacture the machines?

Mr. Holmes. That's correct.

Senator Nunn. Then, of course, you have the Internal Revenue law that relate to taxing gambling profits; is that right?

Mr. Holmes. Yes, sir.

Senator Nunn. Gambling profits, like any other profits, are taxable.

Mr. Holmes. Yes, sir.

Senator Nunn. Do you know whether the Internal Revenue Service has gotten very involved in this area?

Mr. Holmes. No, sir, I do not.

Senator Nunn. Thank you, Mr. Chairman.

Chairman Roth. Mr. Holmes, I, too, want to compliment you. I think the dimensions of the problem are rather staggering when you stop and think that, as you say, theoretically on one machine as much as $600 could be lost in a single hour, and you are talking of thousands of these pieces of equipment throughout the country. It looks like a very effective means of circumventing the laws already on the books has been developed.

So I am going to ask the subcommittee staff to look at both the Federal and State law to determine where we are and what needs to be done. If our laws against transporting gambling devices are not adequate, we ought to try to see what needs to be done.

I agree with Senator Nunn, certainly the tax people ought to be questioned as to what they are trying to do in this area because as I pointed out in my opening remarks, the potential tax loss through this illegal underground economy could be tremendous. It does seem to me one of the problems is that there is a need for some kind of uniform State law to be developed that is not so technical that it can be easily avoided. Whether that can be developed or not is a serious question, but we do have a national commission on that, and I would hope they would devote some time and attention.

I want to congratulate you for your expertise and appreciate the help you have been giving us in the past. We look forward to working with you.

Mr. HOLMES. Thank you.

Senator NUNN. Mr. Chairman, may I ask one more question?

Chairman ROTH. Sure.

Senator NUNN. I remember that when I was growing up years ago they had a lot of pinball machines. With all the high technology today, those are now passé. But with pinball machines, there were payoffs back then in some places. Is this not a continuation of the same practice that has been basically going on for 30, 40, or 50 years?

Mr. HOLMES. It is a carrying over, yes, sir; but the pinball devices of today, you have two basic types. With the flipper pinball, which is a game of skill or bingo-type pinball which is a game of chance. The game of bingo pinball is what they were usually paying off on. The amounts paid off are reimbursed for accumulated games. It is a lot less than you would get on these.

Senator NUNN. Is the fact that games of skill last longer than the distinguishing feature?

Mr. HOLMES. Yes, sir.

Senator NUNN. So what you are saying is, that you can convert anything, any pinball device or any of these machines, into a payoff system if one chooses to, can you not?

Mr. HOLMES. You can use any device——

Senator NUNN [interposing]. You can use Pac Man for payoffs, if you wanted to, by simply dividing the number of accumulated points by some system and paying off based on the number of points you racked up; could you not?

Mr. HOLMES. If there is a desire to do so, yes, there would be a method by which they can do that.

Senator NUNN. The distinguishing feature is not skill or no skill. You are saying that the distinguishing feature, as you see it, in terms of the magnitude of the problem, is really how long it takes to play the game. If it takes 10 seconds, obviously you are going to have a lot of repetition and your money multiplies. If it takes you or a skilled player 10, 15, 20 minutes to play a game, although you could use it for gambling, since the game is not as frequent, the problem is not as great. Is that a fair statement?

Mr. HOLMES. I believe you made a statement skill is not a factor, but the length of time, but skill dictates the length of time a player is able to play so skill is a major factor.

If you don't have skill and you have the other two factors, then it is a gambling device, per se.

Senator NUNN. Are you saying that is your definition or a legal definition?

Mr. HOLMES. A generally accepted definition as to what a gambling device is—consideration, skill or chance, and reward. On the pinball machines, as you mentioned, the flipper type, could extend play because your skill in manipulating the flippers dictated the length of time you played whereas on the bingo-type pinballs, you didn't have that input from the player.

Senator NUNN. But both are gambling devices if used that way, are they not?

Mr. HOLMES. No, sir—well, yes, excuse me, if they are used as gambling devices, they could be construed as gambling devices, but if you take a device as it sits, meaning per se issue, flipper pinball machine would not be construed as a gambling device.

Senator NUNN. Under Federal law it is not construed as a gambling device?

Mr. HOLMES. No, sir, I am not stating any law at all; I am stating a generally accepted definition.

Senator NUNN. By whom?

Mr. HOLMES. By not only State, local and Federal, all the statutes that I have come in contact with, the resulting definition implies these three characteristics—consideration, chance and reward. The aspect of reward is a problem in some areas because it is not defined as what they mean by reward. For example, in Tennessee, a credit, accumulation of more than 15 or more credits is an element that they consider to make the device a gambling device, per se. In Alabama, an extension of play, meaning that if on this Just 4 Fun device, if it was in amusement mode and I received 100,000 points for five hands and if I had won, say, half a million points, I would receive an additional hand free; that extension of play makes that a gambling device in Alabama.

Senator NUNN. And that has upheld in the courts even though there is no money ever paid off?

Mr. HOLMES. That is correct, because they deem that to be something of value. A credit is something of value. A free game, a free play is something of value, even on amusement devices.

Senator NUNN. In putt-putt golf, when you knock the glass ball in the hole, you get a free round. Would that——

Mr. HOLMES [interposing]. No; that would be based on skill. If you don't have all three elements present, it cannot be construed to be a gambling device. Most of your amusement devices, and if you use the flipper pinball machine as an example, you have consideration, which is a coin to activate play, you have skill and then you have a reward of free game or replay, which is equivalent to the quarter or coin that it cost to play it. That is a reward. But you don't have chance. So if you don't have chance, you do not have a game of chance. It is a game of skill, therefore, it takes on the realm of a gambling device, per se.

Chairman ROTH. Of course, in some of the developments that is what they are trying to do, make it appear to be a game of skill to avoid the law.

Mr. HOLMES. That is correct. That is the primary intent of the amusement mode is by giving the player a specific number of hands with only one coin being able to be inserted and only win points, which they deem to have no value.

Chairman ROTH. Here you have a series of cases where the manufacturer is knowingly trying to avoid the law by making the game appear to be something that it really isn't. It is really a gambling device, as I said, a gambling device in Sheeps clothing.

Mr. HOLMES. Yes, sir.

Chairman ROTH. You have a difficult question, because as Senator Nunn properly pointed out, any game can, under certain circumstances, be used for purposes of gambling.

Mr. HOLMES. Yes, sir.

Chairman **Roth**. Here you have a situation that not only can it, but it is very profitable to those involved in illicit activity.

Thank you, gentlemen, very much. We appreciate your being here today.

Mr. **Holmes**. You're welcome.

Chairman **Roth**. At this time, I would like to call forward a panel including Gerald Ruter who is deputy State prosecutor of Maryland; Stephen Braun who is State's attorney, Charles County, MD; and Roger Baldwin who is the operator of Baldwin's 76 Truck Plaza.

Gentlemen, again, I would ask you all three to continue standing. Raise your right hand.

Do you swear the testimony you will give before the subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. **Ruter**. I do.

Mr. **Braun**. I do.

Mr. **Baldwin**. I do.

Chairman **Roth**. We will call upon first Mr. Baldwin for his testimony, and then we will let you gentlemen make your comments and then open it up to questions.

TESTIMONY OF ROGER BALDWIN, PRESIDENT, BALDWIN'S 76 TRUCK PLAZA; GERALD C. RUTER, DEPUTY STATE PROSECUTOR, TOWSON, MD; AND STEPHEN BRAUN, STATE'S ATTORNEY, CHARLES COUNTY, MD

Mr. **Baldwin**. Thank you, Senator Roth. My name is Roger Baldwin. I am the owner of Baldwin's 76 Auto Truck Plaza in Newburg, MD, which is in Charles County, the location of the recent video poker seizures Mr. Braun will speak of a little later. I was one of those people who had video poker machines confiscated from my place of business. We are planning, through our legal attorney, pleading guilty to one-count of a misdemeanor of possessing a slot machine. This will be in a future court date to be decided.

I would like to state from the outset that I am not appearing here today as a spokesman for the truck-stop industry, but instead would like to give the subcommittee some idea of the economic impact these machines have on a small business such as mine.

My truck stop facility, which I took over in May 1983, has actually had video poker machines for many years. Mr. Braun's office informed me that the machines confiscated from my truck stop were of the oldest variety they had found in the county.

When I first took over the truck-stop facility, I realized I might have a cash-flow problem because we were a new business.

[At this point in the proceedings, Senator Nunn withdrew from the hearing room.]

Mr. **Baldwin**. So the five video poker machines that were already there were an important part of our income and business. I estimate that those five machines probably brought in over $100,000 a year or close to that.

These funds were properly recorded and taxes paid accordingly for every penny received, and we can show that on court record when we go to court.

With this kind of income, we were able to make major capital improvements on my truck stop, such as putting on a new roof, remodeling the interior, not to mention paying the salaries of my staff, many of whom live in Charles County, MD. But now with the money gone, I have had to cut back on the number of employees and cut back hours.

We have tried to compensate for that loss of income by opening up a self-service snack section. We will be putting in a travel store and gift shop very shortly, as well as serving hand-dipped ice cream and various other things to compensate for the loss of dollars.

There is no question, the loss of the money was felt immediately. I hope my testimony here today will not leave the impression with you or the audience that truck stops are a haven for illegal gambling or vice. I have never allowed any of our people to play on credit. To my knowledge, there was never any fights or violence related to the machines. We only paid off to a select number of trusting regular customers, all of whom, I might add—I want to back up—all of whom, I might say, could be only a handful that could be termed what we call a compulsive gambler; that is, someone who would spend hours on hours at a machine.

I can't speculate on how many truck stops have these machines since I am new to the industry. I have been associated since 1980 to the truck-stop industry. I would say the truck stops I have visited on a whole are very law-abiding, safe businesses, not to mention essential elements of a multimillion dollar truck-stop industry.

That's the comments I would like to say. I have one public comment that is not on these notes right here. We are also a lottery agent for the State of Maryland, and we are here to talk about gambling, and it works both ways. It is either legal or illegal, whether the State operates it or whether the Federal Government operates it. I can honestly say our lottery machine—we have one—if you compare that in dollar value to what our poker machines took in—quote—the lottery machine being one machine, the poker machines being five, are about three times as great on the lottery side. Naturally, the lottery is State controlled which means we have a 2 percent gross on sales and a 4 percent gross on winning tickets that we cash.

I am listening to the comments made here that, No. 1, for gambling it takes consideration, chance, and reward. We have all three of those in the Maryland State lottery, and I rest my comments.

Chairman **Roth**. Before we go to our line of questioning, I would call on the other two gentlemen for any comments they would care to make.

Mr. **Braun**. I would like to introduce myself. I am Stephen Braun. I am State's attorney of Charles County, 40 miles south of here. It is a county of 80,000 people.

Mr. **Ruter**. My name is Gerald Ruter, deputy State prosecutor for the State of Maryland. The only comment I would like to make is that the State prosecutor's office is a statewide investigative and prosecutorial office. They have jurisdiction over a specified number of criminal offenses throughout the entire State of Maryland. The State prosecutor's involvement in the Charles County investigation, which is still ongoing, was not one which we were looking at primarily for the gambling aspect of it. Mr. Braun is the elected State's attorney. He is more than capable of handling the gambling problem in his county.

The reason that the State prosecutor's office entered his particular county is because of the fear that we have concerning the income tax and the amusement tax problem which we think is substantial, and also the potential for political corruption, public corruption because of the vast amounts of money which are not accounted for in Charles County, and perhaps other counties throughout the State of Maryland. Thank you, Mr. Chairman.

Chairman ROTH. Mr. Baldwin, I would like to ask you a series of questions. As I understand your testimony, you persuaded yourself since there was an authorized lottery by the State, that essentially you saw nothing wrong, nothing illegal with the video-poker-type game; is that correct?

Mr. BALDWIN. I would have to answer honestly, yes.

Chairman ROTH. Would you say that someone in government ought to have the authority to draw the line, which is essentially the State? The fact that the State has authorized limited gambling, does that mean you can place no limitations on other kinds of gambling; would you argue that?

Mr. BALDWIN. No, sir, I would not. May I make a comment on that?

Chairman ROTH. Sure; please do.

Mr. BALDWIN. The problem, as I see it, one individual—quote—if the State is going to legalize it—we are for that. As long as you have legalized gambling somewhere, there is going to be illegal gambling somewhere else within that same boundary. The problem is you have two choices, either legalize it all or make it all illegal because there is no inbetween. We talk about fraternal organizations having these similar devices—quote. We talk about veterans organizations having these things. They are all done in the name of making a profit for the local community to be turned back to needy people. That is what their basis for this is.

Ours was a situation of making a profit to expand our business.

Chairman ROTH. But you do agree State legislature, State government has the authority to draw a line?

Mr. BALDWIN. Yes, I do.

Chairman ROTH. And to have this video poker game is a violation of that law?

Mr. BALDWIN. Yes, sir.

Chairman ROTH. So the record can show this clearly, do you have any such video poker or other type of gambling devices in your truck stop now?

Mr. BALDWIN. As of today?

Chairman ROTH. Yes.

Mr. BALDWIN. The only thing we have is the Maryland lottery.

Chairman ROTH. The only thing you have is the Maryland lottery?

Mr. BALDWIN. Yes, sir.

Chairman ROTH. Did I understand you to say you paid your taxes on any winnings from the——

Mr. BALDWIN [interposing]. Absolutely. It is well documented, believe me.

Chairman ROTH. Both Federal and State?

Mr. BALDWIN. Yes, sir.

Chairman ROTH. I would like to ask you, Mr. Ruter, how you began to get involved in the investigation of video poker machines?

Mr. RUTER. Mr. Chairman, our office actually followed the lead of Stephen Braun, the elected State's attorney for Charles County. As I indicated briefly earlier, our office——

Chairman ROTH [interposing]. Maybe I should have called on him first.

Mr. RUTER. Thank you.

Chairman ROTH. Mr. Braun, why don't you begin to explain how you got involved in this matter.

Mr. BRAUN. My office became involved when it was brought to my attention from various people that the number of these machines in our county was increasing at a very rapid pace and that it was becoming a problem. I had one particular lady call me, which I think you mentioned in your opening statement. It did cost her her family. It cost her her marriage. Her husband would play these poker machines until he literally used up his paycheck and money. In fact, she sent her son to the little country store which was close to their home, combination grocery store, bar, so forth, and asked the owners to please not let his father play the machines anymore. His father was a compulsive gambler, whether it was this machine or any other type of gambling.

That wasn't the only complaint, but complaints of that nature. We started investigating the rapid growth and the amount and number of machines as well as what was taking place. That is how we got started.

Chairman ROTH. Mr. Ruter, now do you want to proceed?

Mr. RUTER. Mr. Chairman, when Mr. Braun got heavily involved in this investigation and it was several months into his investigation, I believe that he became concerned of the possibility of there being a large amount of income taxes or amusement taxes not being paid on the money's which he was already discovering were substantial in their amount.

I believe that Mr. Braun was also concerned, and we also joined in that concern, as to the reasons why the gambling could proliferate with such openness in Charles County and no law enforcement agency would take any kind of action against it whatsoever. Because our office is formed for the very purpose of looking into possible public corruption, Mr. Braun requested our office to look at the possible income-tax implications and the possible public-corruption implications of his investigation, and we, therefore, joined efforts with him back perhaps in the early part of this year.

Chairman ROTH. How widespread has this problem developed in your area? Do you have any idea how many machines?

Mr. BRAUN. We estimated in my county there are somewhere around 125 to 150 machines.

Chairman ROTH. In one county?

Mr. BRAUN. Yes, sir.

Chairman ROTH. Do you have any idea how many are statewide?

Mr. RUTER. There are several thousand, Mr. Chairman.

Chairman ROTH. Are you prosecuting individuals for gambling violations? Are they misdemeanors, felonies? What is the maximum penalty?

Mr. BRAUN. They are misdemeanors. For each machine, 1 year maximum term of imprisonment and a thousand dollar fine. Prosecutions are ongoing. We just recently convicted in court an operator who had seven locations and 23 machines, and from his books, his share of the proceeds, some was 50-50, some was 60-40, was approximately $150,000 a year.

Chairman ROTH. I notice there have been a number of areas where hundreds of these machines have been seized and destroyed. Is that an effective way of putting a stop to this practice, or do you think——

Mr. BRAUN [interposing]. It would be an effective way if you could obtain probable cause to seize the machines. As a law enforcement officer, you just can't walk in and seize and destroy a machine unless it is what is called contraband, per se; that is, illegal, like drugs are illegal.

Chairman ROTH. Haven't we been doing that in some States? Maybe I am wrong. I thought there were some areas where they literally have been seizing them by hundreds and destroying them.

Mr. BRAUN. That would depend upon the State law, Mr. Chairman. That goes back to the earlier question I propounded. Are the current laws adequate or do we need some kind of new legislation or uniformed legislation for the States in this area to help expedite the prosecution of this kind of criminal activity?

Mr. BRAUN. In my opinion, the laws are not adequate, and they put law enforcement at a distinct disadvantage in trying to combat this problem. We were fortunate enough to get into this when the people weren't looking, and we observed the payoffs, but under the recent ruling that Mr. Holmes referred to from the Maryland Court of Special Appeals, that ruling, if we can't get inside the machine to show it has a meter, we have no right to take the machine. So we are at a distinct disadvantage and the technology is way ahead of the law, and I think the law needs to be examined.

Chairman ROTH. Updated. Have you had any successful prosecutions?

Mr. BRAUN. Yes, sir.

Chairman ROTH. How many?

Mr. BRAUN. The major reason we have been successful in our prosecutions, Mr. Chairman, is because the machines, the meter readings on the machines, all of our machines had the old meters, and the operators kept records of the meter readings so that they would be able to reimburse the bar owners. Basically, without that function, which Mr. Holmes has pointed out to you is now getting disguised a great deal, our prosecutions wouldn't be nearly as successful as they have been.

Chairman ROTH. Senator Rudman.

Senator RUDMAN. Thank you, Mr. Chairman. Mr. Braun, I am just curious, you are an elected district attorney. I take it this is a relatively rural county?

Mr. BRAUN. It's both rural and both somewhat of a suburb of the District of Columbia area.

Senator **Rudman**. What has been the public reaction of your constituency to what you are doing? I think that is a question that ought to be asked.

Mr. **Braun**. That would depend on what segment of the constituency you are talking to. Obviously, a lot of these machines were in some Elks lodges, Moose lodges, veteran organizations. They are not very happy about it because obviously the moneys generated from the gambling activity there goes to maintain their programs and lodges.

I think a lot of the general populus of the county is supportive of the enforcement actions taken.

Senator **Rudman**. Has there been much public press comment in your county about what you have been doing?

Mr. **Braun**. Extreme amount.

Senator **Rudman**. Has it been favorable or unfavorable?

Mr. **Braun**. It's been fair.

Senator **Rudman**. It's been fair. That's a very diplomatic answer. It is probably fair to say Mr. Baldwin probably won't be your campaign manager when you seek reelection?

Mr. **Braun**. Mr. Baldwin and I drove up here together, Senator. I would point out in his case, he paid all of his taxes.

Senator **Rudman**. I understand.

Mr. **Braun**. But the person who owned the machines was also sharing in the revenues from his truck stop probably on a 50-percent basis. I don't know whether that person can come in here and take an oath that they paid all of their taxes.

Senator **Rudman**. Mr. Baldwin, in your statement, and I want to thank you for coming here this morning because hearing your testimony is of great interest to us, you mentioned the figure of $100,000 annual revenue to your truck stop from these machines?

Mr. **Baldwin**. Yes, sir.

Senator **Rudman**. Was that your share or was that the gross?

Mr. **Baldwin**. That was my share that we made deposits on and paid taxes on.

Senator **Rudman**. In other words, these five machines actually produced income to your business of $100,000 a year?

Mr. **Baldwin**. That's correct.

Senator **Rudman**. Before taxes?

Mr. **Baldwin**. That's correct.

Senator **Rudman**. On five machines?

Mr. **Baldwin**. Yes, sir.

Senator **Rudman**. You know, Mr. Chairman, I think that is one of the most significant parts of the testimony. Wherever we go from here, that had to be a very substantial share of the net income of your business.

Mr. **Baldwin**. Well, on gross sales it was about three and a half percent of gross sales on an annual basis, but on the bottom line, it was a substantial part and that is the reason why we had to make adjustments to compensate for the loss of it.

Senator **Rudman**. What was the gross that went through those machines to produce $100,000 net to you?

Mr. **Baldwin**. I honestly can't answer that because I, No. 1, had no access to the machines. I never was a part of counting it as far as taking the quarters out, which is what you are talking about.

Senator **Rudman**. What was the formula that you were supposed to be paid on?

Mr. **Baldwin**. Fifty percent.

Senator **Rudman**. Fifty percent of the——

Mr. **Baldwin** [interposing]. The operator split 50 and I got 50.

Senator **Rudman**. Of the gross?

Mr. **Baldwin**. Yes, sir.

Senator **Rudman**. Well, what was left for the gamblers?

Mr. **Baldwin**. Well, that was paid out on an ongoing basis.

Senator **Rudman**. So it had to be something less than 50 percent of the gross. I assume some percentage of it—15, 20, 25. Maybe Mr. Braun can answer that for me, who has been investigating this.

Mr. **Braun**. The typical arrangement would be, Senator, for example, with Mr. Baldwin, if there was $600 in the coinbox when they read the meters, they would read the meters and first pay Mr. Baldwin $100, for what he had paid the player, they would split the net $500 50-50. His $100,000 is his net profit, which was his 50 percent.

Senator **Rudman**. How much would you pay out to the players a week on these machines?

Mr. **Baldwin**. Well, you have got to remember, it's a type of business that's seasonal. During the cold weather, people are inside playing them more, OK? During the summertime, they are outside doing other things. It would vary anywhere from probably as low as $1,000 a week to as high as maybe $3,000 a week in payouts.

Senator **Rudman**. Any idea whether that was on an annual basis?

Mr. **Baldwin**. Not without doing some arithmetic.

Senator **Rudman**. But at any rate, you got that reimbursed by your supplier and then you got $100,000 which you paid taxes on?

Mr. **Baldwin**. Yes, sir; that's correct.

Senator **Rudman**. And this was on how many machines?

Mr. **Baldwin**. This was on five machines.

Senator **Rudman**. I can understand your irritation with Mr. Braun's action. Obviously, if you get $100,000 at a small truck stop in the State of Maryland on five of these machines—I don't want to boggle anybody's mind with figures, but I suspect maybe we ought to look into them as a way to solve the deficit, Mr. Chairman. You have a lot of money involved there, and I guess the next witness, who I am sorry I won't be able to stay to hear, will testify to that.

Mr. **Baldwin**. May I comment on that? Those five machines, we are talking about an annual basis—I am not here to pick on the Maryland State lottery; I am trying to make a comparison. That lottery machine, that one machine brings in between $15,000 and $35,000 a week.

Senator **Rudman**. A week. You would agree, would you not, Mr. Baldwin, the total net proceeds of Maryland is lottery machine, after paying out the winners, are used for public purposes?

Mr. **Baldwin**. That's a fact.

Senator **Rudman**. I am not sure that is a distinction that means anything, but it is a distinction.

Mr. **Baldwin**. Well, now, I will also say the same type of people who play our machines are the same type of people who play the lottery. There is no difference.

Senator **Rudman**. I am sure that is true and there are many people who oppose State lotteries for the same reasons they oppose these private lotteries.

Mr. Chairman, I think we ought to take note of one person who has helped us a great deal in this, and that is Attorney Rufus King, Sr., who is a Washington lawyer who at one time represented a number of vending companies who were opposed to the illegal use of these machines. Mr. King is quite an expert in this field and was very helpful to the staff. I know he is present here this morning. I just thought we ought to thank him for his cooperation.

Chairman **Roth**. I would ask Mr. King to please stand so we all can see him.

Mr. **King**. Old and gray, and we have seen it all. Almost all.

Senator **Rudman**. Mr. Chairman, thank you very much.

Chairman **Roth**. Let me ask one question. What happened to these five machines? Were they destroyed or seized or do you know?

Mr. **Braun**. We have a storage somewhere in the neighborhood of 60 machines currently, and if we obtain convictions, then we are able to obtain the forfeiture of those machines.

[At this point in the proceedings, Senator Rudman withdrew from the hearing room.]

[Letter of authority follows:]

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
Washington, DC.

Pursuant to rule 5 of the Rules of Procedure of the Senate Subcommittee on Investigations of the Committee on Governmental Affairs, permission is hereby granted for the chairman, or any member of the subcommittee as designated by the chairman, to conduct open and/or executive session hearings without a quorum of two members for the administration of oaths and taking testimony in connection with hearings on Illegal Use of Video Gambling Machines to be held on October 1, 1984.

WILLIAM V. ROTH, Jr.,
Chairman.

SAM NUNN,
Ranking Minority Member.

Chairman **Roth**. Did the seizure or removal of these machines have any impact on how many people played the State lottery? Did their sales in that area go up?

Mr. **Baldwin**. Our sales in our location went up a slight amount.

Chairman **Roth**. Went up slightly?

Mr. **Baldwin**. Yes, they did.

Chairman **Roth**. How much, do you have any idea?

Mr. **Baldwin**. Probably about 10, 15 percent.

Chairman **Roth**. How much?

Mr. **Baldwin**. About 10 to 15 percent.

Chairman **Roth**. I would be interested to see if the State would pursue it more aggressively.

Gentlemen, I want to thank you for being here today. Mr. Baldwin, it takes a great deal of courage to come here and testify. I think in a way, your testimony shows the depth of the problem, the fact many people don't feel this is any serious infraction of the rule. I would just suggest if they don't feel that way, then they ought to appeal to the State legislature to have the authority to amend the law. Thank you, gentlemen.

Our next witness will be Angelo Aponte who is Commissioner of the Consumer Affairs for New York City. Before swearing him in, I would like to place another written statement in the record which has been received from Stephen Hochman, president of the New York State Coin Machine Association, and the owner of Crown Vending Co. in New York. Mr. Hochman has been in the vending business for years and his statement presents a bleak picture. He is particularly concerned that law enforcement authorities are not doing enough to control the proliferation of video gambling machines.

I believe Mr. Hochman is in the audience today, and the subcommittee appreciates his effort. I would ask Mr. Hochman, if he is here, to please rise. Thank you. We appreciate your cooperation. We likewise have received your statement.[1]

Also, a letter from Millie McCarthy, also affiliated with the New York State Machine Association.[2]

Chairman ROTH. I would ask you to raise your right hand.

Do you swear the testimony you will give before the subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. APONTE. I do. With your permission, I would like to have Denise Civiletti join me today.

Chairman ROTH. Yes; fine. Pleased to have both of you here. Mr. Aponte, do you want to proceed?

TESTIMONY OF ANGELO APONTE, COMMISSIONER OF CONSUMER AFFAIRS, NEW YORK CITY, ACCOMPANIED BY DENISE CIVILETTI, ATTORNEY GENERAL COUNSEL'S OFFICE

Mr. APONTE. Chairman Roth, members of the subcommittee, my name is Angelo J. Aponte. As Commissioner of Consumer Affairs of the city of New York, I have regulatory responsibility for much of the commercial activity in New York, including the licensing of common show games, electronic video games, such as Joker Poker, among them.

In the past several years, we have become increasingly concerned about the illegal use of this particular game, which is known by several different names, such as Joker Poker, Flashdraw and Little Casino. In nearly every way, these games resemble the kind of professional gambling equipment found in areas where such gaming is legal. There is, however, one important difference: In States where gambling is illegal, there should be no payoff. Nevertheless, there often is.

In addition to being used illegally, these video card games also present consumer problems. In both Nevada and New Jersey, where the games are legal, there are State-sponsored gambling boards which oversee the honesty of such machines and monitor the claimed payoff rates, to say nothing of ensuring proper tax collection. In States like New York where gambling is illegal, players who expect payoff rates similar to Las Vegas or Atlantic City will be quite disappointed.

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[1] See p. 101 for the prepared statement of Stephen Hochman.

[2] See p. 110 for the letter from Millie McCarthy dated Sept. 21, 1984 to Bruce Selcraig, subcommittee investigator.

According to the Federal Bureau of Investigation, on most machines, the odds of drawing a royal flush, the highest hand obtainable, are one in 65,000. But these devices reward a royal flush at only 100 to 1 odds, a substantial profit margin for the house.

To give you some indication of the seriousness of the problem, let me review some recent experience of New York City's Police Department and my department. Enforcement activity in video game gambling last year included an undercover sweep by the Public Morals Division of the New York City Police Department, in which approximately 454 Joker Poker games were seized from some 408 locations throughout the five boroughs. These games were seized as illegal gambling devices under New York State Penal Law. Their operators were arrested and charged with possession of a gambling device.

Most of these electronic card games were initially designed for use in areas where gambling is legal, basically the State of Nevada and Atlantic City, NJ. Approximately 60 percent of the machines seized in the New York City sweeps were of the design intended exclusively for gambling activity: These machines actually ejected coins when a successful player scored a certain number of points. Machines that eject coins fit the definition of a slot machine under New York State Penal Law, Section 225, sub. 8. This is a gambling device per se, the possession and use of which is illegal under New York's criminal code.

But a significant number of them were a second version designed for use in jurisdictions, like New York, where gambling is a crime. This second version is identical to the original version widely used in casinos, with one major difference: It does not physically eject coins when a player wins. Even where the machine does not eject coins, it can easily be used for gambling purposes.

For example, some 40 percent of the machines seized were of this design and did not eject coins. These were used in some other form of operational payoff, in which the house paid the successful bettor in cash, drinks, or tickets, exchangeable for cash or drinks. This design is not a slot machine under the State's penal law. It is, at present, perfectly legal for distribution and use in New York, for amusement purposes only. But when used as part of such a payoff scheme, it is no less a gambling device and its possession and use is no less illegal under our criminal code. It should be noted that the second version of the game can be easily altered so that it functions exactly like the casino version. The simplest mechanical skills are all that is necessary.

Apart from the already low payoff rates built into these machines, investigations by the Westchester County District Attorney's Office have indicated that some houses even alter the odds to their further advantage, often during a single evening. Electronic devices controlled from the bar can change the payoff rates in a decidedly unfair manner. One problem for those who engage in illegal activity is that their interests cannot be protected.

Even if the houses are honest and do not hold these devices out for use in gambling activity, it is quite possible for two people, in an agreement between themselves, to use the machines in an illegal fashion. Any two patrons could use the machines as an independent dealer in a high stakes game of five card draw. Some houses encourage this, but claim no responsibility for the illegal activity. Again, with no regulation, patrons cannot be assured that the devices will simulate exactly a deal from a deck of cards.

Admittedly, it would be a bit disingenuous if I did not state at this point that nearly all common show games can be used as gambling devices by innovative proprietors and customers. We've all bowled for a couple of beers, or played poker for small stakes in our homes. And, yes, two customers could bet on Pac Man just as easily as they could on Joker Poker. But there are several things that separate Joker Poker from Pac Man or Missile Command. One difference is that it takes no skill at all to play Joker Poker. It is simply a game of chance. You put in your quarter, press the buttons and wait for your deal. You ask for additional cards, and that's it. You win or you lose. If you win, you might get nothing, or, if you are engaging in an illicit gambling operation, you might get a much lower than usual house payoff.

Most of the other video games require some skill that is often rewarded in tournaments. Joker Poker doesn't. Joker Poker has little entertainment or amusement value unless it's used for gambling.

A second difference between Joker Poker and other video games is the presence of playing cards. The use of such cards immediately introduces a characteristic that other video games do not have. Because we are used to betting at draw poker, the presence of the machine in a bar, pizza parlor or video arcade is an open invitation to gamble. People who might never think of gambling find themselves in a situation where others might invite them to break the law. We are particularly worried about these machines in establishments where there are children. Our youth are exposed to enough things at an early age that we might not wish to encourage. Now we have them playing five-card stud on the way home from school.

The New York City Department of Consumer Affairs intends to move toward tighter regulation of these machines through our limited administrative discretion. As commissioner, I intend to remove them from the approved list of common show games that the Department licenses. This will have the effect of placing tavern owners and shopkeepers in jeopardy of losing other operating licenses if they have such machines on the premise. It would also subject them to the city's padlocking laws, our most severe regulatory sanction.

We are concerned, however, that civil action might limit our enforcement powers, and so I intend to seek additional statutory authority from the city council of New York to enhance our position in court.

But even if the city of New York exhausted every administrative and statutory power available to it, and banned these games, we still face a problem. Those machines that have been specifically designed for use as gambling devices are illegal today. And yet, I can guarantee that some are being used illegally in New York City right now. Some authority beyond that of local government is needed to control the abuses these video games invite.

More specifically, I suggest that current Federal statutes which make it a crime to ship gambling devices across State lines, United

States Code, Title 15, chapter 24, sections 1171, 72 and 78, be examined for possible amendment to create a presumption that these video card games are gambling devices, even if they are not set to issue coins at the point of transport.

So many of them eventually are altered back to their original form and eject coins that such a presumption would be reasonable. They should not be given the same status as pinball machines or other video games, nor should they be given the same exemption that pinball machines have been granted under the United States Code, section 1178.

In addition, I would also suggest that Federal enforcement agencies work more closely with State and local consumer, police and liquor control authorities to control the abuse of these devices.

I would be remiss if I failed to state that there will be resistance to additional regulation of the banning of these machines. An agent of the New York State Liquor Authority, during an interview on the CBS news program "Sixty Minutes," estimated that these machines take in nearly $750 million in New York State alone. They have become an important revenue source for small shopkeepers in New York, particularly tavern owners, or fast-food centers that rely on the afterschool business of children.

Needless to say, neither the New York City Department of Consumer Affairs, nor the U.S. Senate can regulate all human behavior. But we are in the business of regulating commerce to assure the public interest. Our concern for these machines is that since most forms of gambling are illegal in New York, we do not have a State betting board which would monitor the manufacturing of such machines, verify the payoff rates and ensure that the State receives its share of revenue from taxation on such activity. Obviously, we cannot regulate something administratively if the State legislature has decided to prohibit it by statute.

While the regulatory and licensing powers available to me as commissioner of consumer affairs are considerable, my authority alone cannot prevent the shipment of these gambline devices across State lines. It is time for Federal action.

Chairman **Roth**. I heartily agree with you that the Federal Government ought to look at its laws. I would urge you, if you have any specific language that you think would help or certainly from some of the outstanding bright lawyers in your city who have proposed ideas in other areas, I would be very much interested in seeing those proposals. It is shocking in New York alone that these machines are taking $750 million alone. That shows the dimension of the problem.

One of the things that bothers me the most is that, as you point out in your testimony, at least a significant part of this comes from children.

Mr. **Aponte**. That's correct.

Chairman **Roth**. Who undoubtedly are using their lunch money or whatever funds they have for other purposes so that it is having a very serious effect from that standpoint.

Where would you say the children are getting the money to play these machines?

Mr. **Aponte**. Basically the children are getting money, as you indicated before, from their lunch money or allowances that they use; also, as a result of being quite successful from the proceeds of their gambling enterprises. One of the things we found to be especially true is that Joker Poker games, which originated in terms of location in taverns and places usually frequented by adults, are now being located in stationery stores, pizza parlors, and other stores where children would normally be expected to go to pick up school supplies or just plain go to the store.

It is a major concern that once you predispose someone to gambling that there is a good possibility that particular habit will continue right on out.

Chairman ROTH. In discussing reform in this area, you mention there will be rather stiff opposition because of going back to your New York case, supplying something like $750 million in illegal revenue to people in the State. Have you had any specific examples of this opposition at this time?

Mr. APONTE. Yes, sir; part of our responsibility in licensing of common show games in the city of New York is to enforce a local law which allows up to four machines on a particular premise. Any establishment having five or more machines is considered an arcade. The zoning requirements in New York prohibit, I would say, better than 98 percent of the area of the city of New York to that kind of operation where there are more than five games involved.

What has happened in this transformation, even as we seize the games—and I will share with you some of the statistics we have had--owners have complained bitterly, not only to the department but also to elected officials, that this particular type of machine represents a major source of revenue for their businesses and, in many instances, have indicated that without it their business would not be able to continue or remain open. Indeed, in at least two instances we were told that the games paid for all of the rent, all of the utility bills and a portion of employee salaries. So in effect, the business was operating rent free by the virtue of possession of these types of games.

The department, since 1982, under its padlock enforcement, has seized 419 unlicensed, illegal games. Since February of 1982, 256 locations have been padlocked, and as a result, went out of business after being cited for illegal activity. Nearly $133,000 in fines collected during that same time period.

Under New York City licensing regulations promulgated by the department, establishments having common show games may not be located within 200 feet of a school. This regulation was upheld in the State Supreme Court of New York. We have been challenged in the courts under article 78 proceedings in New York State. The court has found in favor of our statutory requirement, as well as our regulatory requirements, in the State.

When we are dealing with such a large amount of dollars, which indeed become not an ancillary revenue source, but a primary revenue source for a particular business, then you are going to see the kind of opposition that will reach at every level in terms of making these games either legal or at least viable to be kept by small proprietors.

Chairman ROTH. I assume with a business of that size, $750 million, that even if we were able to attack it through crossing State lines—aren't there some manufacturers in New York State as well?

Mr. APONTE. The primary suppliers of these common show games come from outside the State of New York. Most of the games are manufactured in New Jersey or other parts of the country.

Chairman ROTH. I guess what I was thinking out loud, with that kind of a return, I would assume that some enterprising person might decide it would be a good place to manufacture. It bothers me, you are saying even though you had a fair amount of success in closing and padlocking some entities, it really has not had any impact on others stopping their use; it doesn't seem to concern them that much; is that correct?

Mr. APONTE. Well, that is a major problem. Basically, attacking the problem, we have begun to take a different tact. Initially, we license the location, the shopkeeper for the particular games on premises. We found this, as you indicated, is not the most effective way because we did not in any way intrude upon the distributorship of these particular games. We are presently looking at our licensing requirements. Our attorneys are now preparing licensing requirements for distributors, instead of the location owner. We feel that by moving to this level of distribution that we are going to have greater impact on controlling the proliferation of these types of games. By licensing the distributor in New York City, we in effect place him under the statutory requirement that would allow us, among other things, to audit revenue, audit the books, records, financial statements that are associated with that particular business.

In addition to that, once he is licensed, then he comes under the department's jurisdiction in terms of administrative hearings for the particular illegal activity he might be involved in. In that instance, we can basically effect removal of his license and deny him the ability to operate in New York City as a whole.

I think that will have a greater impact upon the industry. By the way, it should be pointed out this licensing on the distributors level is for all types of common show games, not just Joker Poker.

Chairman ROTH. Mr. Weiland, do you have any questions?

Mr. WEILAND. Mr. Aponte, you referred to the $750 million revenue figure which I understand is a quote from a New York State liquor agent. Do you have any reason to subscribe to that figure yourself? Do you concur with his estimate? I just want the record to be clear on that, if we can.

Mr. APONTE. Yes, we concur with the estimate. I suspect, if anything, it will probably be a little bit more than a little bit less. Just on a local level, on a small business proprietor level, one machine, in one instance, has generated anywhere from $2,000 to $5,000, during 1 month depending upon the time of year.

So we kind of feel that that figure is a very strong figure. We believe in it. We suspect the revenue is probably a little higher.

Mr. WEILAND. And one other question I am not clear on. Have you estimated the number of illegal video gambling machines that might be operating in the city of New York right now? Do you have such an estimate?

Mr. APONTE. That would be the proverbial Herculean task. I suspect in a city the size of New York, I have no idea. Basically, we are reviewing the number of licensed video games that we currently are involved with now. We have been stepping up our enforcement activities and have been confiscating illegal games on a regular basis.

I have to get back to you with an estimate on that, just based upon our enforcement activities, both in the police department and our own law enforcement inspectors.

Mr. WEILAND. You are confident, I take it, though, the numbers are at least in the thousands?

Mr. APONTE. Oh, absolutely; absolutely.

Mr. WEILAND. Thank you, Mr. Chairman.

Mr. APONTE. If not tens of thousands.

Chairman ROTH. Thank you, Mr. Aponte. We appreciate your being here today. I think the hearings this morning have shown the dimension of the problem. It is a matter of concern to me that these machines cost something like $1,500 to $2,000 and are bringing in revenue in excess of $200,000, according to our one witness. And the total amount of money that is being skimmed off by these illicit activities is a matter that should be of concern to law enforcement officials at every level.

Mr. APONTE. Senator, may I add one more point?

Chairman ROTH. Sure.

Mr. APONTE. One of the pieces we noticed in our enforcement, the redeeming of the particular machines we confiscate, while the Pac Man and Missile Command-type machines are not readily redeemed, the minute a Joker Poker machine is confiscated, you can expect either the distributor or the storeowner to be down there promptly paying the fine to free his machines or, in effect, he creates not a 24-hour bailing out of the machine but almost from the time the machine is confiscated, he is down at the department paying the padlock summons or the $1,500 fine, whatever it may be, to bail that particular machine out. They don't waste any time, the distributors, in getting those machines back out on the street and working again.

Chairman ROTH. I notice in some States they have been seizing and destroying them, which might be a little more effective.

Mr. APONTE. We are examining that particular aspect, too, sir.

Chairman ROTH. In any event, as I say, it is a matter of real concern because it is illicit. It certainly, or at least potentially, is an area for organized crime to become involved in. Have you had any evidence of organized crime being involved in this activity in the city of New York?

Mr. APONTE. At this moment, no. I think there is a good guess that when you are dealing with such a high revenue point, at one point or another one would expect you would find that kind of involvement. That is one of the reasons why we are moving to distributor licensing so that we can have a better handle on the industry of distribution of these types of games throughout the city of New York. We think we can begin more effective law enforcement at that level than at the local proprietor's level.

Chairman ROTH. The only other comment I wish to make at this time, I am going to instruct the subcommittee staff to prepare a letter for me to send to the Commission on Uniform State Laws requesting that they take a look at this area of activity and see if they cannot come up with some recommendations that might give a more effective tool to the enforcement officials, such as yourself.

In the meantime, I think the Federal laws ought to be examined to see what changes that need to be made.

I appreciate both of you being here today for your very helpful testimony.

The subcommittee is in recess.

[Whereupon, at 11:45 a.m., the subcommittee adjourned.]

APPENDIX

PREPARED STATEMENT OF SENATOR SAM NUNN

RANKING MINORITY MEMBER

U.S. SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

ON

ILLEGAL USE OF VIDEO POKER MACHINES

This morning the Permanent Subcommittee on Investigations will examine the nature and structure of electronic video poker machines and the use of these machines for illegal gambling.

Mr. Chairman, I want to thank and commend you and the Majority staff for your efforts in preparing for these hearings.

Given today's mushrooming video game industry, it is hardly surprising that the game of poker has now also found its way into video arcades. What is unfortunate is the fact that its presence has already, at this relatively early stage, been linked to tax avoidance, the corruption of public officials, extortion, and the violence which so often accompanies it.

Today, through the testimony of federal, state and local law enforcement representatives, I believe we will hear of the serious problems created when electronic video poker games are used for illegal gambling purposes. We will hear of the growing use of these games in that respect and the difficulties which this poses for our law enforcement authorities.

As you know, Mr. Chairman, in January, 1984 we held hearings on the nature and scope of organized crime in the Great Lakes region of the United States. Witnesses at that hearing testified not only to the increase in the use of video poker games as illegal gambling devices but also to organized crime's growing attraction to their potential for substantial illegal profits. Law enforcement officials at that hearing were able to confirm in that region the involvement of organized crime groups in the control of these devices. With that testimony in mind, I look forward to hearing more on the problem of the illegal use of these video poker games during the course of today's hearing.

Again, Mr. Chairman, I commend you and your staff for your fine work in this investigation.

Thank you.

PREPARED STATEMENT OF WILLIAM L. HOLMES, SPECIAL AGENT FEDERAL BUREAU OF INVESTIGATIONS

VIDEO DISPLAY GAMBLING DEVICES

(SYNOPSIS)

MODERN VIDEO DISPLAY GAMBLING DEVICES (VDGD) ARE HIGHLY COMPLEX MECHANISMS DESIGNED AND USED TO FACILITATE GAMBLING. THEY PROVIDE AN AUTOMATIC METHOD FOR ACCEPTING PLAYERS' WAGERS, OPERATING A CHANCE-SELECTION SYSTEM IN CONCERT WITH A GAME FORMAT, AND AWARDING WINNING PLAYERS EITHER DIRECT CASH PAYMENTS OR CREDITS, WHICH MAY BE REDEEMED FOR EITHER ADDITIONAL PLAYS OF THE DEVICE OR CASH AT THE PLAYER'S DISCRETION. THE DESIGN OF THE DEVICES IS SUCH THAT THEY MAY NOT BE EASILY RECOGNIZED AS GAMBLING DEVICES. THEIR OUTWARD APPEARANCES FREQUENTLY RESEMBLE INNOCENT AMUSEMENT-TYPE DEVICES. PLAY OF THE VDGDS, HOWEVER, IS CLEARLY DIFFERENT IN NATURE THAN PLAY OF AMUSEMENT VIDEO DEVICES. ALSO, THERE ARE SEVERAL PHYSICAL CHARACTERISTICS OF THE GAMBLING DEVICES WHICH DISTINGUISH THEM FROM THE NON-GAMBLING DEVICES. THESE CHARACTERISTICS INCLUDE SOME FEATURES SIMILAR TO THOSE HISTORICALLY ASSOCIATED WITH SLOT MACHINES.

"Video games," a generic term denoting a family of electronic devices with a screen upon which images are formed by electrical impulses, fall into two distinct categories -- gambling devices and amusement devices. Both types use the same electronic components, namely, miniaturized circuitry and microprocessors of the minicomputer. The minicomputer forms the basis for the development and growth of video games; however, the video game concept is also greatly influenced by slot machines, a relationship illustrated by the evolution of the slot machine.

History and Development of Slot Machines

Slot machines can be classified as mechanical devices, elctro-mechanical devices, and electronic devices.

The first mechanical device slot machine, introduced circa 1890, was operated by three different play-action principles. The first principle used a scalelike mechanism which tilted when enough coins were randomly deposited upon it, causing the accumulated coins to be returned to the player. The second principle allowed a deposited coin to travel through a maze of pins. If the coin landed in a "winning" pocket, the player would receive the contents of that pocket. The third principle used a spinning wheel; if the wheel stopped in a winning position, a fixed number of coins would be dispensed.

In 1887, Charles Fay developed the first marketable slot machine, which was introduced in selected San Francisco saloons approximately 1895. Named the "Liberty Bell," it was the first automatic three-reel slot machine and was operated on a percentage basis. Fey's machine had 3 reels bearing 10 symbols each, a manually operated handle to spin the reels, and an apparatus for the automatic payout of coins won. The symbols consisted of the four suits in a deck of cards, as well as bells and horseshoes.

Just prior to the turn of the 20th century a multiple-coin head was added, allowing the player to bet one to five coins. This concept developed into the multiple-coin feature used on today's "multiple-line play" slot machines.

Tokens were introduced in the early 1900's to circumvent gambling law requirements. These tokens, also known as "trade checks," were traded for merchandise or services. They became unpopular when slot machine technology advanced to varied multiple payoffs.

In 1902, the "Big 6" upon which a player could bet one to six numbers and was paid 4 to 1. The house percentage was approximately 16 percent. Three years later, a slot machine that accepted only coins was introduced. The "Elk," however, paid out "trade checks," not coins.

A modified version of Fey's "Liberty Bell" was developed by putting 20 symbols on each reel. This produced 8,000 possible combinations instead of the 1,000 possible combinations on Fey's machine. By increasing the number of symbols on each reel, the machine offered more winning combinations, more frequent payoffs, and a larger jackpot.

In 1925, the "guaranteed jackpot" became a feature on slot machines, which provided payment of the value of a jackpot even though the jackpot display was empty. The earlier jackpot was a "drop jackpot," i.e., when a jackpot was won, the coins would drop into a coin hopper, leaving the jackpot display empty. This empty jackpot display tended to dissuade further play, a problem that was partially solved with the introduction of the "dual jackpot," which displayed two jackpots side by side.

In 1944, Fey developed the "Bell" slot machine with the added feature of multiple reels with variable automatic payout for various reel combinations, a concept still used as the basis for the more recent slot machines.

By the 1950's, a manufacturing company in Reno, Nev. had designed and carved life-size figures of cowboys and Indians and incorporated slot machines into the upper torso of each figure. The handle used to activate the device was concealed inside one arm of the figure. Presumably, this is where the term "one-arm bandit" originated.

In 1951, the Johnson Act impacted the slot machine industry by providing the law enforcement community with the means to seize gambling devices, i.e., slot machines, if they were transported across State lines to locations where not specifically exempted by local law.

The slot machine industry experienced a tremendous slowdown from the late 1950's to approximately 1963, resulting in several manufacturers going out of business. During this period, the industry began redesigning their machines and producing electro-mechanical devices. Electrical circuits were used to perform some of the mechanical functions, such as dispensing the correct number of coins for winning combinations and illuminating the reel display for bonus features. Flashing lights that were activated when winning combinations occurred and electrically operated "hold" buttons were added. (See fig. 1.)

Camouflage Used

As early as 1902, ploys and diversions were incorporated into the design of slot machines in an attempt to disguise the true purpose of the device. For example, a music box was added to one model, implying that a customer played the device to hear the music instead of to gamble. Another popular ploy changed the "fronts" of these devices by incorporating "vending" features for dispensing mints, candy, or gum. There were three main types of vending features: A side vender, which was usually a hang-on attachment; a two-column vender built into the front, one on each side of the reel display; and a front vender, which consisted of four columns and covered the entire front of the device.

Other attempts to disguise the true nature of the slot machine were the "skill stop" and "future play" features. The skill stop feature added stop buttons for each reel, allowing the player to stop each reel independently. The claim was that this was an act of skill, thus removing the device from consideration as a gambling device. The "future play" feature, a more popular concept, was used successfully for a number of years. When a player won a jackpot, the coins would drop onto an internal platform. The player did not receive any coins at this time, but an indicator would appear and inform him how many coins he would receive on the next play. The player would insert a coin, activate the device, and at the conclusion of that play, receive the number of coins indicated.

The argument used here is that if a player knows how many coins he is going to receive and when he will receive those coins, the device is not a gambling device since the reward is not a product of chance.

Electronic Slot Machines

In approximately 1964, "electronic" slot machines were introduced using a minicomputer to generate electrical impulses to create images on a screen, initiating a generation of slot machine that gives the player more options of play. The action imitates the spinning of reels by flashing images on a screen in rapid succession. "Multipliers" allow the player to bet one or more coins to increase the payout, and "multi-line play" feature gives the player more ways to win for each coin inserted. (See fig. 2.)

The "progressive" slot machine visibly keeps track of plays since the last jackpot and dispenses the cumulative total of coins as a bonus jackpot. A "bothways" feature gives the player the option of reading the sequence of images forward or backward to determine a winning combination.

Slot Machine Characteristics

The slot machine occupies a unique position in today's gambling community. In casinos, the slot machines are the most popular attraction. A survey by

Public Gaming Magazine reported that in 1981, slot machines produced 42.7 percent of all gaming revenue in Nevada and 43 percent of all gaming revenue in Atlantic City. The slot machine is most popular with female gamblers, and among various age groups, the elderly, both male and female, predominate. As a rule, the more knowledgeable players refrained from playing the slot machine; however, with the introduction of the "progressive-line" and "Big Bertha" slot machines, this trend is changing. The incentive these machines offer, such as a jackpot of a million dollars, contributes to this phenomenon.

Simplicity of operation, the expectation of gaining a large return for a small consideration, the excitement of play without undue stress brought on by lack of knowledge or experience, the relatively small bets on each play, and the easy access to the machines themselves all contribute to slot machines' popularity.

Historically, the judicial system has held that three elements must be present to classify a device as a gambling device per se: The consideration (the cost or value of the coin needed to begin play); the outcome of an event determined wholly or predominately by chance; and the reward (something of value) equal to or greater than the initial consideration. In several jurisdictions, a credit is deemed something of value.

The slot machine has certain distinguishing features which define the nature of the device. Characteristically, a slot machine requires inserting a coin to put the device into a play mode, which is activated by a lever, arm, or button. Once activated, reels or drums bearing several symbols begin to rotate in a timed cycle. The combination of symbols produced when the reels stop is, as a rule, purely by chance. Other features incorporated into the operational aspects of the slot machine, such as multiple coins, retention ratio, meters, and time of play, are also used as identifying characteristics.

Multiple-coin Feature

"Multiple-coin feature" means that the device can accept one or more coins. In most instances, each additional coin inserted increases the payoff ratio for a winning combination. For example, a "Sweet Shawnee" device which uses an electronic reel, has a multiple-coin feature which allows the player to insert from 1 to 7 coins. (See fig. 3.) For each additional coin inserted, the player increases the payoff ratio for each winning combination. Modern slot machines using this feature are called "progressive slots."

Inserting a coin (or coins) puts the device into the play mode. When the player pulls a lever located on the front of the device, the reels are set into motion, or in this case, an electrical circuit is activated, producing impulses which appear as images in three circular windows located near the top, front portion of the device. All reels begin rotating at the same time; however, the length of rotation of these electronic reels varies. The first reel stops after approximately 3 seconds have elapsed, the second reel after approximately 4 seconds, and the third reel after approximately 5 seconds. This synchronized start and staggered stop sequence produces a random combination of symbols.

Once these images become stationary, a "hold" feature comes into play. The player may hold one or two of the three images displayed by pressing a button, one for each reel represented. To put the device back into the play mode, one or more coins or credits must be inserted. The player then pulls the lever to set the reel(s) in motion (only the reel(s) not on hold will rotate).

This hold feature allows the player to retain any image that he believes will be to his advantage on the next play. This feature merely removes one (or two) of the three reels from the next play, reducing the total available combinations from 8,000 to 400 (or 20). The final outcome remains a product of chance, because the images that appear on the remaining reels are selected by the device at random.

The Sweet Shawnee II has an "added chance" feature that comes into play if the player has a winning combination. By pressing this feature button, the player has the chance to receive nothing, double, or triple the original payoff, or he/she can also opt to collect the original credits won by not activitating the chance feature.

Retention Ratio

All slot machines are designed and manufactured to retain a predetermined percentage of all coins inserted into the device. This retention ratio, commonly called the "house percentage," applies only to games of chance.

A slot machine generally retains from 3 percent to 15 percent of all coins it accepts. However, each device can be set to retain greater percentages if the owner or operator so desires.

The Sweet Shawnee II device is no exception. Its electronic circuitry provides the means by which the owner can regulate the house percentage by adjusting two dials located on a logic board inside the device. Each dail bears the digits 0 through 9. Setting the first dial on 0 provides the owner with a 50 percent retention ratio, while a setting of 9 gives the owner a 5-percent retention ratio. The second dial has the same function as the first, but applies to the "feature" aspect of the device by increasing or decreasing the frequency of payoffs.

Some manufacturers, use a "bit switch" or a "dip" switch to regulate the retention ratio by varying the number of winning combinations on which the device will payoff.

Another method of modifying the retention ratio is by using a "PROM" (a fixed program, read only, semi conductor memory), which modifies the program of the device relative to the number of designated winning combinations. A "terminal strip" can also be used to regulate the retention ratio or to regulate the cost of each play. (See figs. 4 and 5.)

Electronic video display devices and other devices that award credits for winning combinations foster a misinterpretation of the retention ratio concept. The retention ratio is the percentage of all coins inserted and retained by the device over an extended period of play. This new version of gambling device uses a meter to record credits won by the player. Additional plays or bets can be made by the player, using these credits in lieu of depositing additional coins. These accumulated credits are included in the calculation of the retention ratio. Payoffs in credits are an alternative to payoffs in coins, and as such, they hold less interest for casinos.

Video gambling devices, like their casino counterparts, have a profit potention directly proportional to the retention ratio. The retention ratio is based upon the "law of probability" and a payoff of less than true odds for winning combinations. In poker, there are 2,598,960 possible winning poker hands in a 52-card deck, including the hands where a high card may be declared the winner. (See table 1.) The video poker device establishes its profit potential by not paying off on all possible winning combinations. For example, the Quick Draw Poker device awards credits only for a pair of aces or better, creating a retention ratio of approximately 28 percent. When the player bets four or more credits, two wild jokers are put into play. This decreases the retention ratio to approximately 14 percent, because winning combinations appear more often. A video poker device that only pays off on aces or better will have 282,660 winning combinations for awarding credits out of 2,598,960 possible combinations.

The rule of play established by the video device guarantees a predetermined retention ratio over an extended period of play. (See table 2.)

Time of Play

As a rule, if play on a gambling device is performed according to the parameters of the device, the duration of each play or event would be very short, approximately 5 to 10 seconds. After inserting into a slot machine, which puts the device into a play mode, the player then pulls a lever or presses a button to set the reels in motion. The reels will stop at the end of a timed cycle, ending that event of play. Once the timed cycle is activated, a player cannot alter or extend the time of play, regardless of alleged skills or capabilities.

Meters

The original slot machines did not have meters to record the number of coins deposited or paid out for winning combinations. The expected return for those devices was calculated mathematically. This was accomplished by computing the total number of possible combinations available for each device, then calculating the total number of winning combinations and multiplying each winning combination by the number of coin awarded for that combination. The total number of coins awarded for winning combinations was then substracted from the total number of possible combinations. The resulting ratio was the house percentage over an extended period of time of play.

Meters were added to the newer versions of electronic slot machines when credits were awarded for winning combinations instead of coins. Operators of video gambling devices claim that a knock-off meter is a necessary business function which insures employee honesty.

A primary function of a knock-off meter is to record credits removed from the credit meter when a player is reimbursed for the unused credits. This meter provides an accurate method by which the operator may be reimbursed for what was paid to the player. In most States, paying players for unused credits constitutes gambling and is, therefore, illegal.

Another reason offered to justify the use of a knock-off meter is when a player wants to stop playing but does not want to lose the credits he has accumulated. The operator will give the player the option of playing off these unused credits at a later date. This procedure would necessitate a knock-off meter to be compared with the coins-in meter or the actual number of coins in the device. Theoretically, the difference would indicate the number of coins the operator had to put into the device to restore the number of credits previously displayed on the video screen credit meter.

This is an invalid reason for using the knock-off meter since it would require more accounting records than are traditionally found in this type of device. For example, if four players accepted the future play option, one on each successive day, the knocked off credits would be recorded on the knock-off meter accumulatively. The operator inserts coins to restore the credits owed the first player on the fourth day, with the expectation of being reimbursed by the owner or route man. Yet, how does the owner or route man know how much to reimburse the operator based only upon the two meter readings (or actual coin count), inasmuch as the knock-off meter only displays the total credits removed for the four players and not each player individually? Additional records would be needed to record the payoff process accurately.

One of the characteristics of an amusement device is the immediate right to replay. The future play aspect, in the above situation, would tend to exclude these devices from being classified as amusement devices.

Video Device Variations

Many video display devices currently being manufactured have the capability of paying off in coins, tokens, credits, or tickets with minor adjustments or the addition of a dispensing mechanism. A Hold and Draw video draw poker device, for example, combines a credit and cash payout system (See fig. 6.) A player may continue to play using the credits or press a "collect" button and receive cash equal to the number of remaining credits. This same model is also available without a coin hopper but retains the credit meter to record credits won by the player.

Several electronic video gambling devices attempt to duplicate the more popular casino-type games, such as draw poker, five-card stud, blackjack, and keno. However, manufacturers may offer variations of a particular game to make their device appear more unique. For example, one device offers a double-up version of draw poker. This double-up feature functions only when the player has a winning combination. The player then has the option of taking a chance of winning double the amount won or nothing on the turn of a card (image). In an attempt to become more competitive, manufacturers are offering the player the option of playing one to four different games on the same device, i.e. draw poker, blackjack, acey-deucey, and a three-reel slot machine configuration.

Currently, manufacturers of video gambling devices are using a dual program concept. One program incorporates the elements of a gambling device, i.e., consideration, chance, and reward; the second program eliminates the "reward" element by limiting the number of hands per coin/credit and awarding a fixed number of "points" for that same coin/credit. When the points and/or hands are played, another coin/credit must be used to begin another series of hands. A player may insert multiple coins but only one coin/credit may be used for each series of hands.

The unique feature of this concept is the method used to change from one program to the other. When in the gambling mode, a series of buttons are pressed, in predetermined sequence, to change from the "gambling" mode to the "amusement" mode. A coded format is also used to reverse the programs.

It is obvious that this concept is designed to foil law enforcement in their effort to investigate gambling violations. This concept also raises another issue; Is a device a gambling device per se when there are interchangeable programs using a "gambling" and "amusement" format? Part II of this article will compare amusement and gambling video display devices.

COMPARISON OF AMUSEMENT AND GAMBLING VIDEO DISPLAY DEVICES

The advanced nature of the electronic slot machine's microprocessor and the advances in computer technology of the mid-1970's led to the development of the electronic video display devices of today.

There are two types of video gambling devices -- a casino-type device which dispenses coins and a noncasino-type which does not contain a hopper but registers credits awarded on a meter displayed on the video screen. Except for the payoff method, these two devices function identically. (See figs. 7 and 8.)

The noncasino gambling device contains several operational characteristics not present on the casino-type device -- knock-off switches, two meters, and a video display credit meter. These items, which are built into the wiring harness by the manufacturer, enable the owner to monitor the operation of the device.

Since the casino-type device is already recognized by the judicial system and the gambling industry as a gambling device per se, only a comparison of the noncasino gambling device with the amusement video device will be addressed.

Video gambling devices and amusement devices use the same electronic components, such as printed circuits, ROMS, PROMS, EPROMS, microprocessors, and video screens. These devices differ in the program which reflects the nature of the game depicted upon the screen. The characteristics of the game determine whether it is a game of chance or a game of skill.

Knock-off Feature

The knock-off feature, used only on gambling devices, removes any accumulation of credits left on the credit meter, thereby preventing a subsequent player from playing the device without charge or from being reimbursed for credits earned or accumulated by a different player. This knock-off function is performed by several methods, some of which are designed to disguise their true purpose. These methods include a button, a key-operated switch, a remote switch wired from the device to a remote location, or a switch activated by a radio frequency transmitter, such as a garage door opener. On the newer models, the knock-off function is performed by pressing a series of buttons in a predetermined sequence.

Meters

The noncasino-type device contains two six or eight-digit meters. One meter records the number of coins inserted into the device; the other unused credits removed from the credit meter.

On the early models, these meters were located inside of the device. However, newer models display these meters on the video screen. To display the knock-off meter, buttons are pressed in a predetermined sequence. This coded feature maintains the confidentiality of data.

An amusement device does not require a knock-off meter. It has but a single meter used to record coins accepted by the device.

Power Interrupt Circuit

Most of the noncasino video devices have a power interrupt circuit (PIC) which is activated when a power failure occurs. Without this feature, all accumulated credits recorded would be removed when power was restored. Since credits and coins have value, loss of either would represent a large financial loss to the player. It is to be noted that the New Jersey Gaming Control Commission requires all electric gambling devices to have a PIC to protect the player from losing his wagers or winnings.

On amusement devices, there are no large accumulations of credits or games/

replays. One exception is when the device will accept quarters only, and the player receives five plays or games per coin. Credits for these games will be recorded on a credit meter, but the player can use only one game or credit at a time. Each game is independent of all others, except for those devices which display the current highest score. A power failure would merely cause a delay in play, and at most, require the operator to reactivate the device to continue play. Theoretically, this would cost the operator the value of the consideration or cost of one game.

Multiple-coin Feature

Both noncasino video gambling devices and slot machines have multiple-coin features that allow the player to deposit several coins before play begins. These coins are translated into credits and are recorded on a credit meter. The player has the option of playing one or more credits on the next play.

An amusement device generally does not have a multiple-coin feature. A player can, as a rule, insert only one coin at the start of each play or event. However, there are two exceptions which would occur when the amusment devices has additional provisions: 1) When two or more players play the same device at the same time, and 2) when the amusement device will accept more than one coin at a time, even though the player can only play one coin or credit for each game. This is one of the more obvious differences between amusement and gambling devices.

Replay Versus Credit

A "replay" is defined as playing again or playing over and may be interpreted as a free game. Amusement devices use replays, meaning that the player will receive, as a bonus, all that an amusement device has to offer for the price of one play.

On the other hand, a "credit" can apply only to a gambling device. A player may accumulate credits and use one or several on each replay. Credits are used to increase pay-off ratios and to activate additional features.

Both a replay and a credit have the same value as the coin used to initiate play whether it be an amusement or gambling-type game. However, replays are more commonly found on amusement devices and not on gambling devices. The term "replay" should not be used interchangeably with "credit."

Coins Versus Credits

Credit, when used in conjunction with electronic video display gambling devices, is defined as something of value. When a coin is inserted into a device which does not have a ticket, token, or coin payout feature, a credit will be recorded, The credits recorded for coins inserted and credits awarded for winning combinations accumulate on the same meter. Therefore, since no distinction is made, they must be of the same value, namely the value of the coin required to begin play.

One exception to the process is if the device accepts only one coin at a time. The credit for this coin is recorded on the bet meter. If the player wins, the credits awarded are recorded on the credit display meter. When the player makes additional bets, these credits are subtracted from the credit display meter and recorded on the bet meter. Although the credit recording process differs, the value of the credit equals that of the coin inserted to initiate play since both the coin credit and awarded credit are recorded on the bet meter when a wager is made.

Time of Play

Characteristically, play on a noncasino video gambling device, as well as other types of gambling devices, is of short duration. Gambling devices are designed to operate on a timed cycle, the length of which is determined by the nature of the game. Once the device is activated, the player cannot alter the time cycle.

Some video gambling devices, such as a draw poker device, have multiple time cycles. There is no limit on how long a player may take between activating the "play" or "bet" button and the "deal" button. Once the deal button is pressed, the images of five cards appear on the screen. This is a timed cycle and cannot be altered or extended by the player. The player then decides which cards (images) to discard — a procedure that is not timed. Once the discards are chosen, the draw button is pressed and a second timed cycle begins.

This illustrates that time of play on a video draw poker gambling device appears to be extended by the action of the player when long pauses are used between the start of each phase of play. This time extension is not a result of a player's skill, but merely a result of inactivity.

A video amusement device will begin a sequence of events once a coin is inserted depending upon the type of game. For instance, in Pac-Man, an image manipulated by the player moves through a maze devouring dots and avoiding monster images. When the Pac-Man image devours a "blinking" dot, it turns and devours monster images and scores points for each one devoured. An average player can play 4 to 5 minutes for a single coin.

If a player paused while playing an amusement device such as Pac-Man, time of play would tend to be shorter since the Pac-Man image would probably be overtaken by the monster, thereby ending that phase of the game. With this type of strategy, very few points would be scored by the player.

An amusement device also has a timed cycle. However, it differs from a gambling device's timed cycle in that a player can extend or interrupt the cycle of an amusement device by, for example, manipulating the Pac-Man image through the mazes to devour the dots and avoid being devoured by the monsters. Thus, a player's ability will affect the outcome of play. In addition, the more an individual plays an amusement device, the more skilled he or she is likely to become. On a gambling device, which always employs an element of chance essentially beyond the control of the player, a player will reach a certain level of ability, but from that point on will not become a better player regardless of the frequency of play.

Skill Factor

The element of skill becomes a primary factor in determining whether an electronic video device is a gambling device. The term "skill" has several definitions and interpretations, all of which conclude that an activity is skillful if a player can significantly affect the final outcome of play as a result of his own actions. A gambling device, however, is based wholly or predominantly on chance, which would preclude the player's ability from significantly affecting the final outcome of play.

Poker is recognized as a game of skill because factors come into play when interaction occurs with other players, which can determine the success ratio of a "skilled" player.

The skill of a poker player is usually gauged by the amount of money he won by the end of a playing session and not by the number of times he had a winning hand. This monetary success ratio depends upon the betting strategy of the skilled player, which includes the choice of not playing bad hands as well as betting appropriately on good hands.

Five elements constitute poker skill: 1) Knowledge of game's mathematics, 2) money management, 3) psychological deception, 4) card memory and analysis, and 5) betting courage. However, only knowledge of a game's mathematics may assist a player of video gambling devices to increase his winning percentage.

For example, if a player has a pair, the odds are 5 to 1 against improving his hand to two pairs, 8 to 1 against improving his hand to three of a kind, etc. Knowledge of the law of probability gives the player insight as to what type of hand he has the best chance of obtaining.

The result of the draw is still a product of chance and will not guarantee him a consistent winning ratio. If a player uses this knowledge consistently, the results will occur in an unpredictable sequence due to the random nature of the device.

The number of times a knowledgeable player wins does not necessarily result from his knowledge (expertise). For example, if a player discarded one card in an attempt to draw a straight or flush and drew a card which gave him a winning pair, this does not result from a player's skill, since the intent was to fill a straight or flush.

To be effective, knowledge of the law of probability as it applies to the game of draw poker must be used in conjunction with the other four skill factors mentioned previously. However, play of an electronic video gambling device does not involve interaction which includes the other four skill factors. Since video draw poker devices are preprogrammed to retain a certain percentage of all coins inserted into the devices and/or credits won, the effect of a player's application of knowledge of the law of probability is reduced in the final outcome of play. A player of an electronic video draw poker device will attain only limited success, regardless of skill, because

> **of the lack of interaction and the limitations of the device.**
>
> **On the other hand, an amusement device allows the player to apply skill by manipulating levers, buttons, balls, and flippers relative to visual interpretation of images and fields of play. The level of skill a player demonstrates significantly affects the final outcome of play.**

Ploys or Diversions

The use of ploys or diversions is just as prevalent today as it was in 1902. Manufacturers of noncasino video gambling devices often disguise their devices as amusement devices in an attempt to avoid being classified as gambling devices. Mislabeling is one type of ploy used extensively by owners and manufacturers. Most video gambling devices bear labels which state "for amusement only;" true amusement devices do not need and are not normally labeled as such. The label "skill points" merely describes the credits awarded for winning combinations because, in fact, little or no skill is actually required to win these credits.

A popular but less obvious ploy is to change the primary appearance of the game while retaining all of the original characteristics of play. Manufacturers are replacing the images of cards with images of dwarfs, castles, roman tallies, balloons, etc.

For example, a video display device identified as "Dwarfs Den" displays images of 5 dwarfs consisting of 4 different color groups numberer 1 - 13. The 4 groups of 13 dwarfs have obvious similarities with a deck of 52 cards consisting of 4 suits. The characteristics of play of "Dwarfs Den" are identical to those of the video draw poker device. When a player places a bet of one or more coins or credits, five images are displayed on a video screen, the play chooses his discards, which are replaced with new images. Tables 3 and 4 illustrate the operational, display, and play characteristics of the "Dwarfs Den" device compared with those of a video display draw poker device.

Table 1

POKER PROBABILITIES

Possible Poker Hands in a 52-Card Deck

Straight Flush (including 4 royal flushes)			40
Four of a Kind			624
Full House			3,744
Flush			5,108
Straight			10,200
Three of a Kind			54,912
Two Pairs			123,552
One Pair (84,480 of each, Aces to Deuces)			1,098,240
No Pair:	Ace High	502,860	
	King High	335,580	
	Queen High	215,180	
	Jack High	127,500	
	Ten High	70,380	
	Nine High	34,680	
	Eight High	14,280	
	Seven High	4,080	
	Total		1,302,540
			2,598,960

Source: Richard L. Frey, According to Hoyle (Greenwich, Conn: Fawcett Pub. Inc., 1970) p. 31.

A majority of the noncasino video display draw poker devices will only pay off on aces or better, which reduces the total number of winning combinations for which credits are awarded.

TABLE 2

DRAW POKER

Odds Against Improving A Hand On The Draw

HANDS BEFORE YOU DRAW	CARDS DRAWN	IMPROVED HAND	ODDS AGAINST PLAYER
One Pair	3	Two Pairs	5 to 1
		Three Of a Kind	8 to 1
		Full House	97 to 1
		Four Of a Kind	359 to 1
Three Of a Kind	2	Full House	15.4 to 1
		Four Of a Kind	22.5 to 1
Two Pairs	1	Full House	10.8 to 1
4 card Flush	1	Flush	4.2 to 1
Open Straight	1	Straight	4.9 to 1
Inside Straight	1	Straight	10.8 to 1
Open Straight Flush	1	Straight Flush	22 to 1
Inside Straight Flush	1	Straight Flush	46 to 1

Source: C. R. Emerson, "Video Poker — Draw To Win," Gambling Times, May 1982, p. 70.

The odds against a player improving a poker hand on the draw illustrates the fact that the final result of each hand is based upon chance.

TABLE 3

Characteristics Of Slot Machines, Video Gambling Games And Video Amusement Games

CHARACTERISTICS	SLOT MACHINE	VIDEO GAMBLING DEVICE	VIDEO AMUSEMENT DEVICE
Multiple-Coin Feature	Yes	Yes	No
Multiple-Play Options	Yes	Yes	No
SKILL - Play Can Influence Final Outcome Of Play	No	No	Yes
Time Of Play	Short	Short	Varies
Payoff Method	Coins Credits	Coins Credits	None
House Percentage Or Retention Ratio	Yes	Yes	No
Number Of Meters	1 or 2	2 or more	1
Knock-off Feature	Some	Yes	No
Power Interrupt Circuit	Yes	Yes	No
Gives Player All Game Has To Offer For One Coin	No	No	Yes
Interaction*	No	No	Yes
Fixed Payoff (Same Reward For Identical Combinations)	Yes	Yes	No
Casino Type Game (Retains All Losing Decisions)	Yes	Yes	No
Game Specifics Winning Combinations	Yes	Yes	No

*Interaction occurs where the action of one player influences the action of another player relative to play.

TABLE 4

OPERATIONAL CHARACTERISTICS

	"Dwarfs Den"	"Draw Poker"
1.	Five images of dwarfs, four colors, each color numered 1 through 13, total 52 dwarfs.	Five images of cards, four suits, aces through ten, Jack, Queen, King, total 52 cards.
2.	Five "ZAP" buttons used to discard choice of dwarfs.	Five "Discard" buttons used to discard choice of cards.
3.	"PLAY POINTS" button to play 1 to 8 credits per play.	"BET/ANTE" button to bet 1 to 8 credits per hand.
4.	"START" button used to display 5 dwarfs.	"DEAL" button used to display 5 cards.
5.	"REPLACE" button used to replace dwarfs discarded.	"DRAW" button used to replace cards discarded.
6.	"UNZAP" button used to cancel choice of dwarfs to be discarded.	"CANCEL" button used to cancel choice of cards to be discarded.

The operational characteristics of "DWARFS DEN," though labeled differently, performs th identical functions as the operational features of the video "DRAW POKER" device.

TABLE 5

DISPLAY CHARACTERISTICS

	"Dwarfs Den"	"Draw Poker"
1.	Four-digit display meter, upper left-hand corner of screen, records credits for each coin inserted.	Four-digit display meter, upper left-hand corner of screen, records credit for each coin inserted.
2.	Two-digit display meter, upper right-hand corner of screen, records credits played per game.	Two-digit display meter, usually lower right-hand corner of screen, records credits bet per hand.
3.	"Wild Dwarfs" come into play when specific number of credits played.	"Wild Jokers" come into play when specific number of credits are bet.
4.	Designated winning combinations.	Designated winning combinations.
	Thin Twins	Pair Aces
	Double Twins	Two Pair
	Triplets	Three of a Kind
	Green Brothers	Flush
	Lavendar Gang	Flush
	Blues Brothers	Flush
	Red Brothers	Flush
	Generation	Straight
	Family	Full House
	Quadruplets	Four of a Kind
	Solid Generation	Straight Flush
	Quintuplets	Five of a Kind
	Fat Generation	Royal Flush

The display and play characteristics of "Dwarfs Den," though labeled differently, are identical and perform the same function as those of an electronic video display "Draw Poker" device.

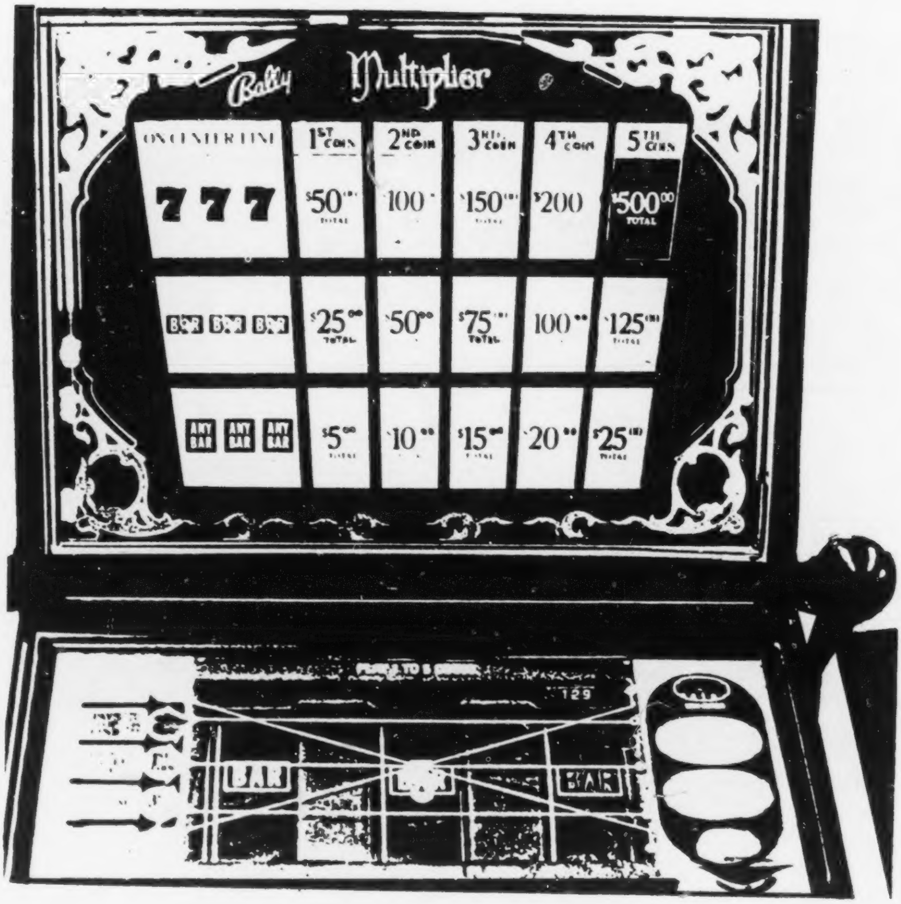
Bally
Multiplier
ON CENTER LINE
1ST COIN
2ND COIN
3RD COIN
4TH COIN
5TH COIN
7 7 7
$50.00 TOTAL
100.00
$150.00 TOTAL
$200
$500.00 TOTAL
BAR BAR BAR
$25.00 TOTAL
50.00
$75.00 TOTAL
100.00
125.00 TOTAL
ANY BAR
ANY BAR
ANY BAR
$5.00 TOTAL
10.00
$15.00 TOTAL
20.00
$25.00 TOTAL
PLAY 1 TO 5 COINS
129
BAR
BAR

Figure 6

An example of a "Multi-Line" play slot machine manufactured by Bally Manufacturing Company.

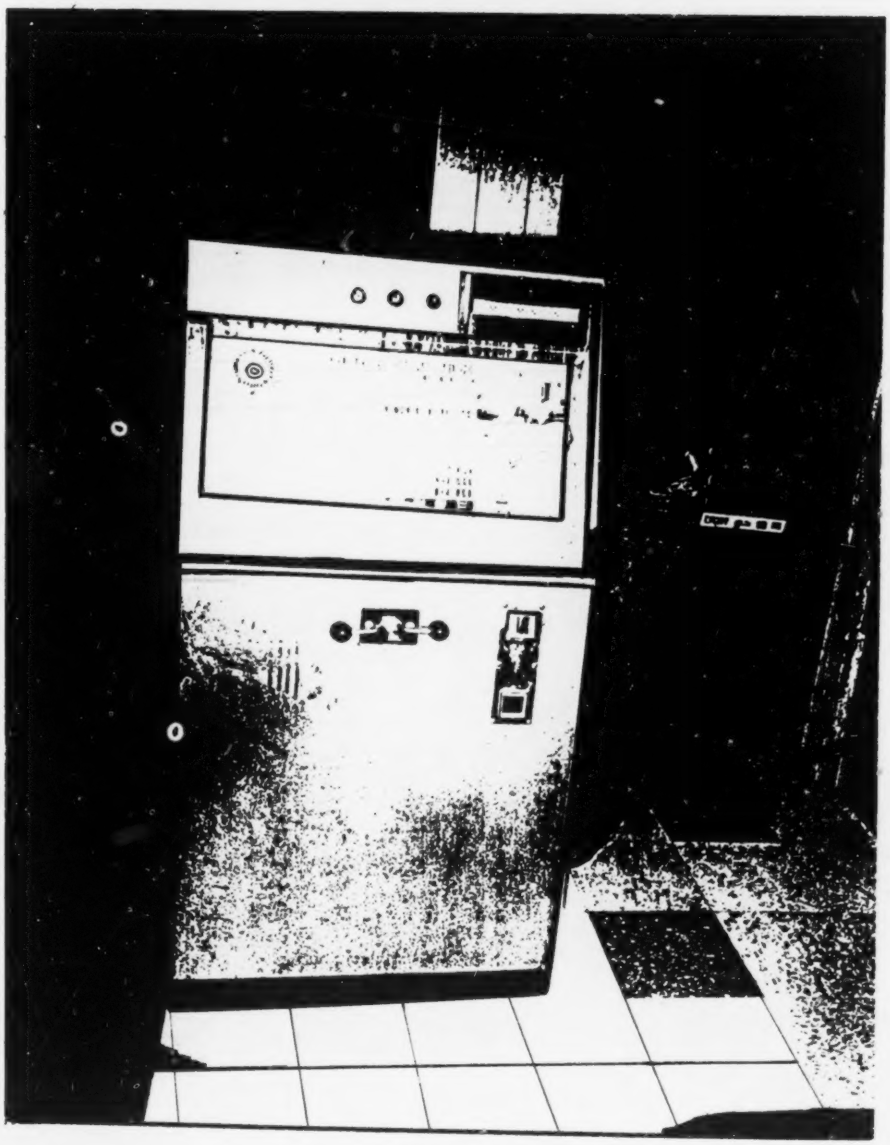

Figure 7

The "Sweet Shawnee" video display device, Manufactured by Merit Industries, is an electronic slot machine which uses electronic reels. This device has all the characteristics of a slot machine.

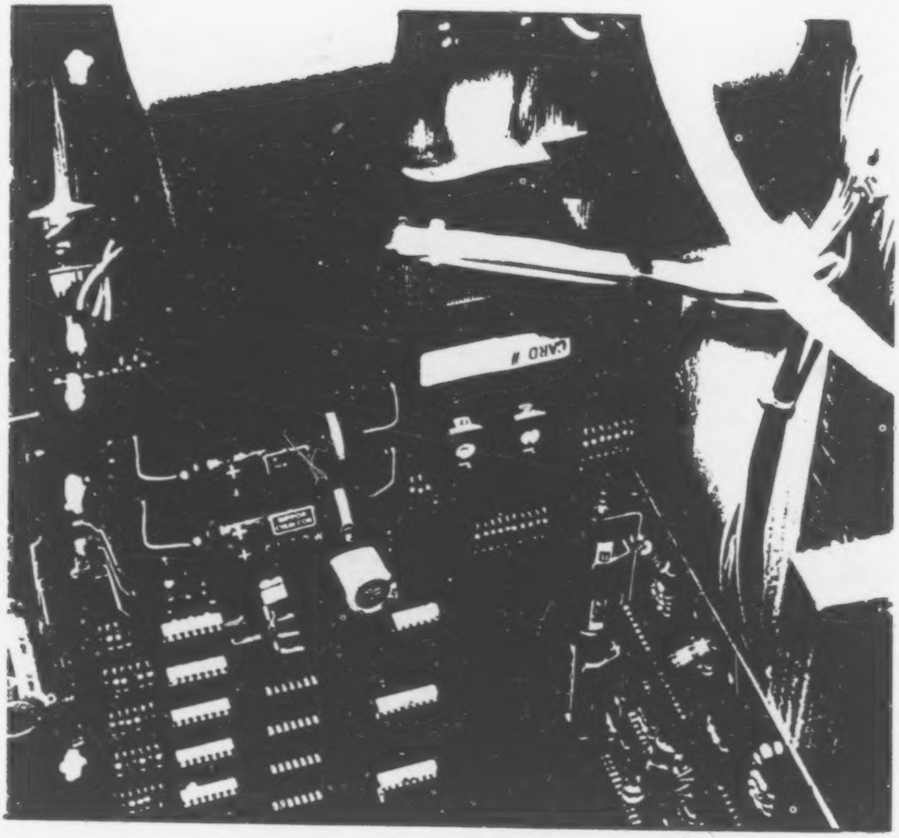

Figure 8

The "Sweet Shawnee" device manufactured by Merit Industries uses two dials mounted on a circuit board to regulate the retention ratio or house percentage.

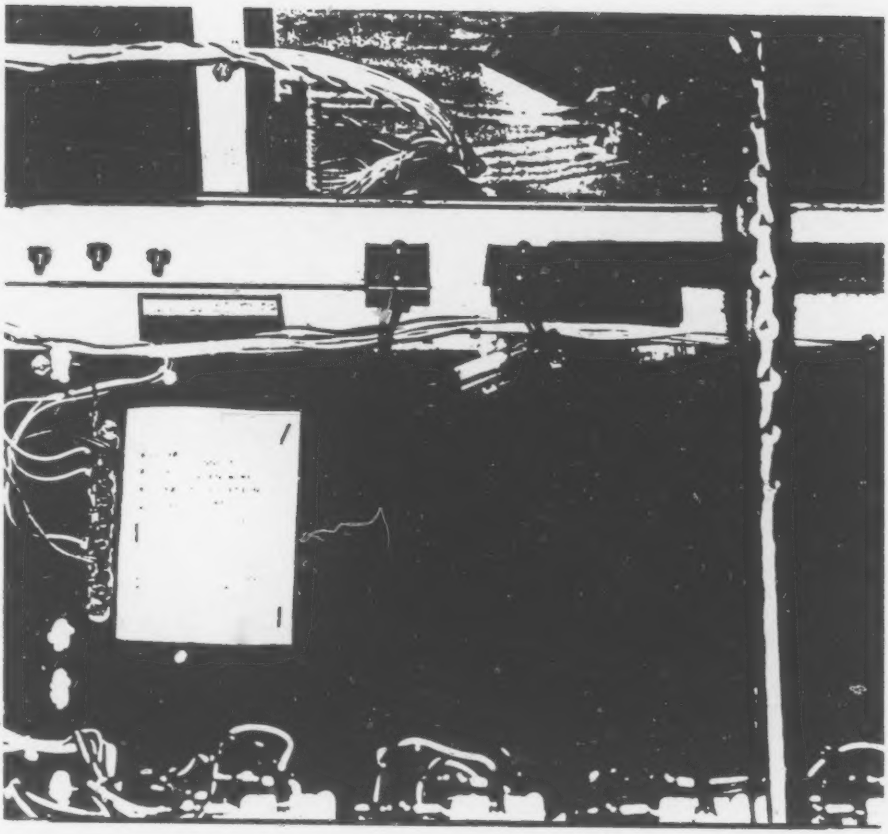

Figure 9

A terminal strip located inside of the cabinet of a "Sweet Shawnee" device is another method used to regulate the retention ratio from 10% to 20%.

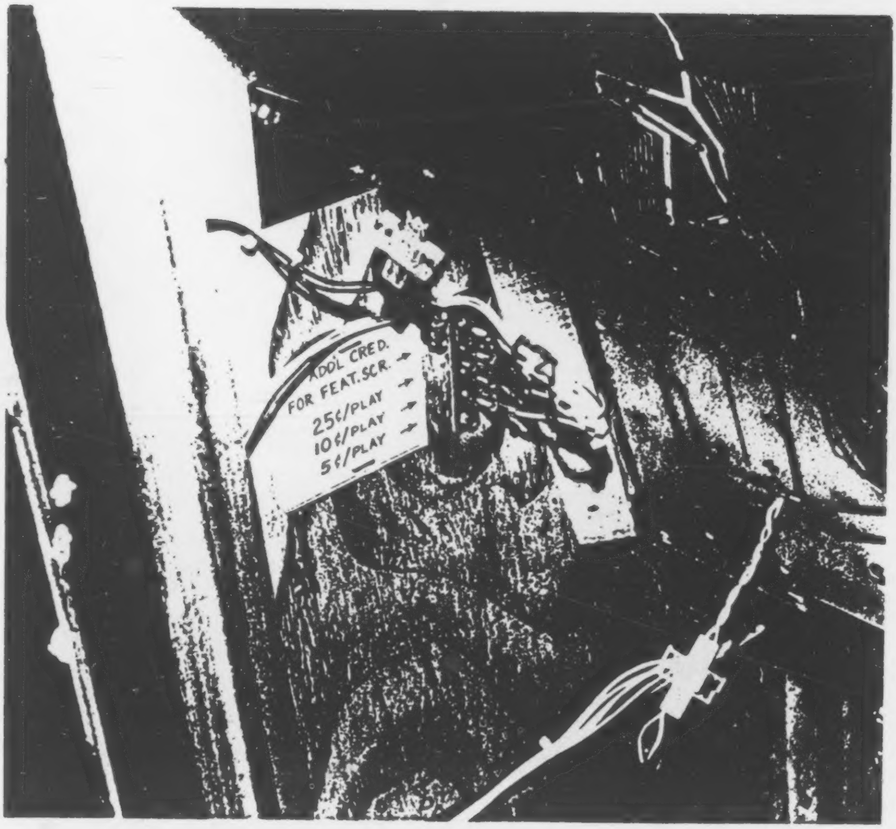
ADD'L CRED.
FOR FEAT. SCR. →
25¢/PLAY →
10¢/PLAY →
5¢/PLAY

Figure 10

A terminal strip allows the operator to change the cost of play from 5¢ per play to 25¢ per play and award additional credits for the feature score. This is a "Sweet Shawnee" device manufactured by Merit Industries.

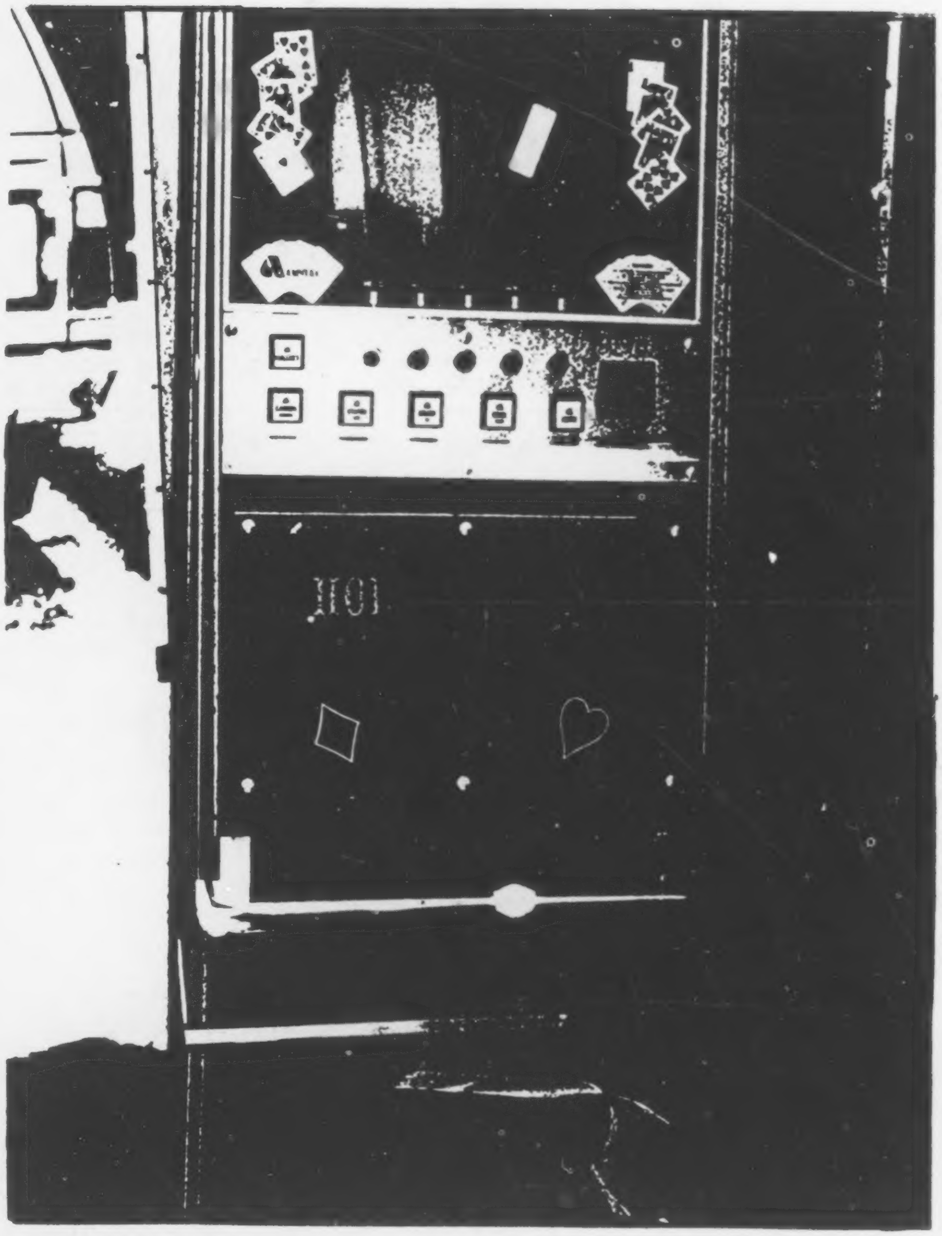

Figure 11

A "Hold & Draw" video device manufactured by Amstar which has a coin hopper to return coins to players for winning combinations.

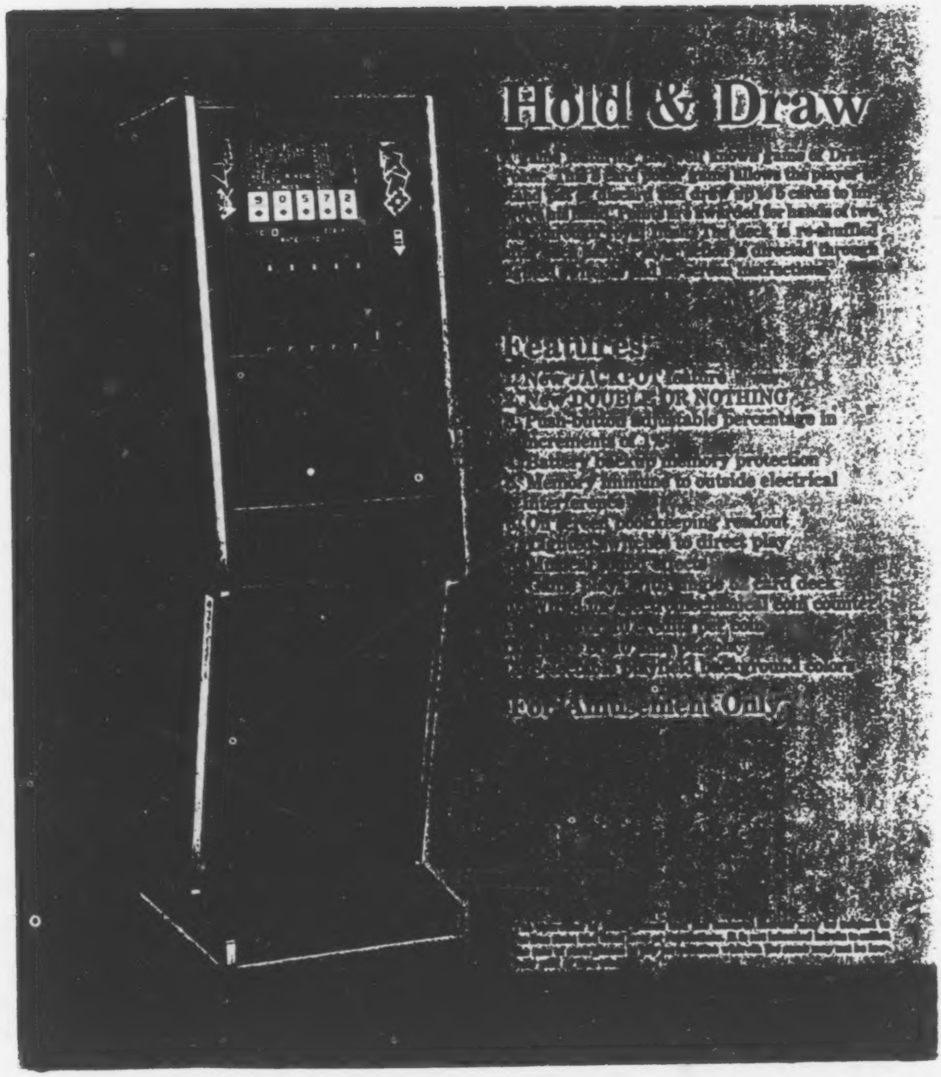
Hold & Draw
Features
New DOUBLE OR NOTHING
Push-button adjustable percentage in
Battery backup memory protection
Memory immune to outside electrical
For Amusement Only

Figure 12

Source: Advertising brouchure distributed by Amstar Mfg. Co.

A "Hold & Draw" video device manufactured by Amstar Manufacturing Company which registers credits only for winning combinations.

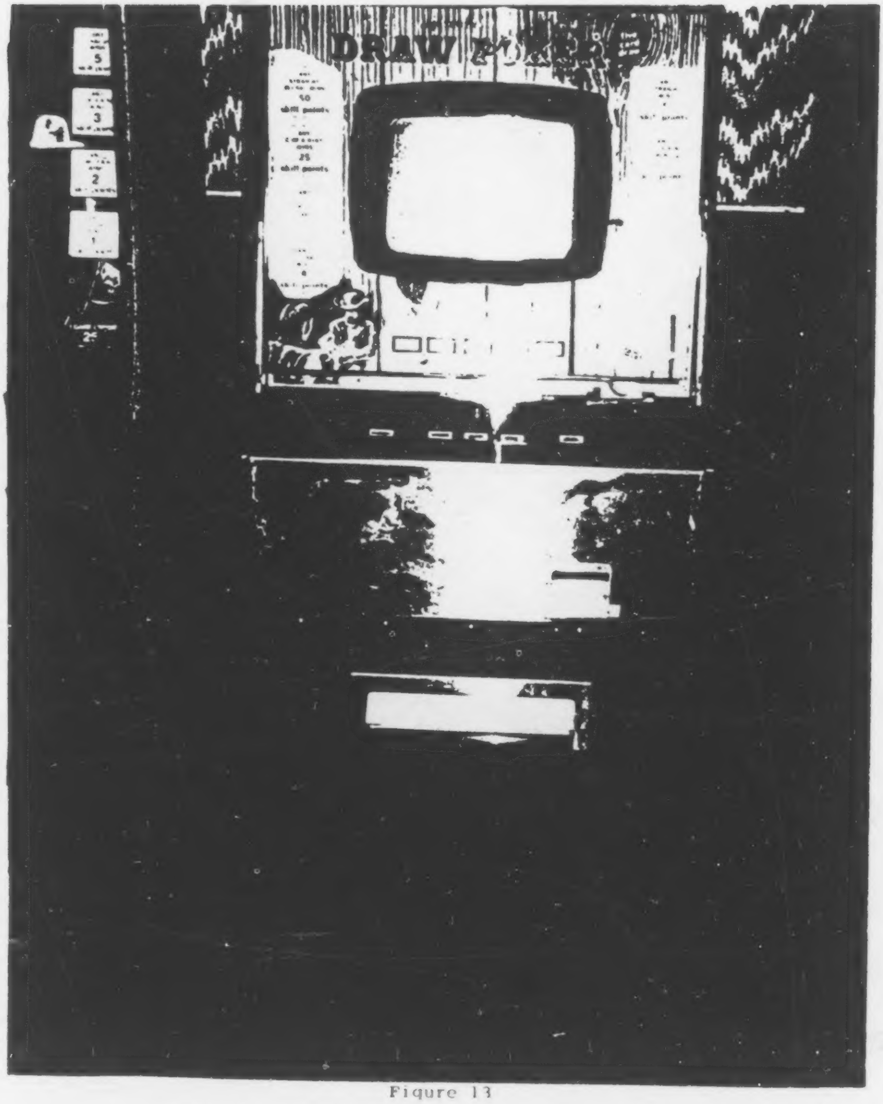

Figure 13

This "Draw Poker" device is a casino-type gambling device which dispenses coins for winning combinations. This device is manufactured by Sircoma, Reno, Nevada.

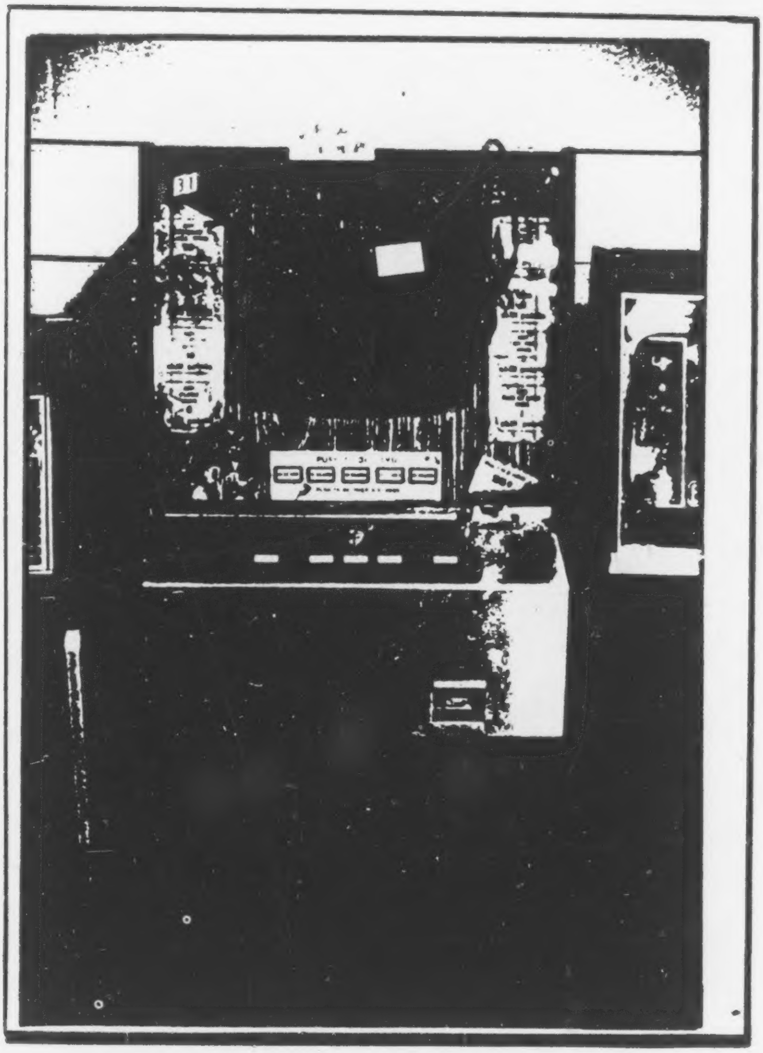

Figure 14

This "Draw Poker" Machine is a non-casino-type gambling device which records credits in lieu of dispensing coins for winning combinations. This device is manufactured by Sircoma. Nevada

PREPARED STATEMENT OF CLAYBURN PEEPLES, DISTRICT ATTORNEY GENERAL, CONCERNING DIFFICULTIES IN ENFORCING LAWS REGARDING TO VIDEO GAMBLING DEVICES IN WEST TENNESSEE

I have been asked to describe the problems encountered by my office in attempting to enforce Anti-Gambling Laws in West Tennessee as they relate to video gambling devices, more specifically, video poker machines. A brief history of efforts to rid West Tennessee of these devices by other District Attorneys and myself will be most illustrative of the problems that we have encountered.

On November 3, 1982, I took office as District Attorney General of a rural Judicial Circuit consisting of four small West Tennessee Counties with a total population of 113,000 people. At that time, my staff and I discussed the devices known as video poker machines with a view toward determining whether or not their being offered to the public was violative of the Tennessee Laws against gambling. I also discussed this matter with certain other District Attorneys in West Tennessee and it was agreed that this was a matter that should be discussed by all District Attorneys as soon as possible. Even though my own staff and I determined that these machines were being illegally used as gambling devices within my territorial circuit, the press of other indicted indictments precluded my giving this problem my immediate attention at that time.

On January 3, 1983, the Governor of the State of Tennessee, the Honorable Lamar Alexander, received a hand written letter which purported to be from an eleven year old girl who resided,at that time,in West Tennessee. In this letter, the eleven year girl requested the Governor's assistance in ridding the area of poker machines due to the fact that the girl's mother was spending all their grocery money on these machines. The girl claimed that her mother played machines in the city of Milan, Tennessee and in Henry County, Tennessee among other places. These locations are both within the Judicial Circuit that I serve.

The Governor's office turned this letter over to the Tennessee Bureau of Investigation immediately. On January 29, 1983, I was furnished a copy of this letter by the Tennessee Bureau of Investigation. At that time, I began negotiations with Inspector Jack Blackwell, who is in charge of West Tennessee operations of the Tennessee Bureau of Investigation, concerning the possibility of the Tennessee Bureau of Investigation conducting an undercover operation for the purpose of determining the extent of illegal gambling within my Judicial Circuit and with a view toward ridding my Circuit of these devices. While these negotiations were going on, in the early part of February, 1983, three businesses in Gibson County, Tennessee were broken into by persons who appeared to have had no motive other than to destroy video and/or amusement devices located within the three buildings in questions. In two of these businesses, electronic poker machines were destroyed with nothing else being disturbed. I received reports, unconfirmed, that threats had been sent from one poker machine supplier to another supplier concerning a territorial squabble.

Meanwhile, the Sheriff of Benton County, Tennessee, a County not in my Judicial Circuit but which neighbors my Circuit, notified a supplier of poker machines to location owners within Benton County that the machines must be removed. The supplier in question then offered the Benton County Sheriff substantial sums of money to allow the machines to remain. Working in concert with the Tennessee Bureau of Investigation, the Sheriff received two separate payments from said supplier, totaling some seventy-five hundred dollars. On February 23, 1983, at the request of Director Arzo Carson of the Tennessee Bureau of Investigation, a meeting was held involving District Attorney Generals from three different West Tennessee Judicial Circuits, these District Attorneys being General David

Hayes of Union City, Tennessee, General G. Robert Radford of Huntingdon, Tennessee, and myself. At this time, we were advised by Director Carson that extensive criminal activity involving illegal gambling activities utilizing electronic poker machines was taking place in West Tennessee. Corrupt activities ranging from arson and attempted bribery of public officials, to other organized forms of violence were described. After being briefed by Director Carson, the three District Attorneys General in question issued a joint request that the Tennessee Bureau of Investigation conduct an immediate investigation into all professional gambling activities within their respective Circuits. On February 25, 1983, an additional meeting was held at the West Tennessee headquarters of the Tennessee Bureau of Investigation in Jackson, Tennessee. This meeting involved the same three District Attorneys and also involved the Honorable Hickman Ewing, United States Attorney for West Tennessee, Agents of the Federal Bureau of Investigation, and other Federal Agents as well as District Attorney Paul G. Summers of Somerville, Tennessee. These meetings resulted in an extensive investigative operation into gambling activity being carried on by the use of electronic poker machines in West Tennessee. The first phase of this operation was carried out in Obion, Weakly, Henry and Benton Counties. Henry County, Tennessee was at that time located within my Judicial Circuit. In Henry County, Tennessee, approximately one hundred machines were seized by the TBI, and in spite of the fact that many of these machines had already been "robbed" due to location owners being tipped off as to the raid taking place, over twenty-five thousand dollars was taken from the confiscated machines. In one location alone in Henry County, three thousand four hundred seventy-eight dollars and fifteen cents in illegal gambling revenues was seized. In another location, seventeen hundred dollars was seized, and in another location, twenty-two hundred dollars was seized. In one small tavern about the size of a large living room, over seven hundred dollars was confiscated from a single machine. Based upon Tennessee Bureau of Investigation estimates, my office staff estimated that there were approximately three hundred and forty-two video poker machines in my Judicial Circuit at that time. My office staff calculated that the average amount of money in the machines seized which had not been "robbed" was four hundred thirteen dollars. If in fact the machines were robbed once a week, simple multiplication will indicate what a staggering amount of money was involved in the tiny rural Circuit which I serve.

Following this raid, my office was besieged by leaders of Fraternal and Veterans Organizations, as well as from certain law enforcement officials, demanding to know how long the gambling devices would have to be left out of circulation. Members of my staff were harrassed and ridiculed, as were those members of the law enforcement community who enthusiastically supported our efforts to enforce the law regarding these devices. Unconfirmed reports of threats of personal violence against me were conveyed to me personally.

In the meantime, other District Attorneys in West Tennessee were also conducting operations aimed at ridding their Circuits of electronic poker machines. Specifically, General Jim Horner of Dyersburg, Tennessee and General Paul Summers of Somerville, Tennessee, conducted operations of this type during 1983. As calendar year 1983 came to a close, numerous District Attorneys in Middle Tennessee, as well, conducted operations of the same type. Not all District Attorneys, however, have acted concerning video gambling devices. Some took the position, until recently, that the devices in question were not gambling devices but were in fact amusement devices until and unless proof developed that showed machines to have actually been gambled upon. Needless to say, the video poker machine industry in Tennessee supported that view. Recently, however, the Tennessee Court of Appeals, the intermediate level Court in the State of Tennessee, declared certain types of machines to be gambling devices under the Law of the State of Tennessee as it now exists whether or not there was any proof of gambling activity. This case is now being appealed to the State Supreme Court.

In the meantime, poker machines of the type declared illegal by the Tennessee Court of Appeals are still located in several places in the State of Tennessee, and in all probability, will remain. Some District Attorneys in Tennessee, as well as certain other law enforcement officials, have expressed the view that their time is better spent dealing with what they consider serious criminal matters than with video poker machines.

One official who has not taken such a position is United States Attorney Hickman Ewing of the Western Division of Tennessee who has prosecuted several individuals for criminal offenses regarding these machines with charges ranging from gambling and obstruction of justice to extortion, arson and racketeering. At this date, most of those tried have been found guilty as charged. Others are awaiting trial.

In spite of all this, many responsible Tennessee officials still refuse to acknowledge the seriousness of this situation or its potential for corruption of public officials. The pressure upon District Attorneys and law enforcement officials to ignore the gambling laws in Tennessee is immense and unrelenting. It has been almost two years since this controversy erupted in Tennessee. In that time, in spite of the fact that Tennessee has one of the clearest and most comprehensive gambling Statutes in the Country, virtually nothing has been done by the State of Tennessee as a State. Indeed, law enforcement is so fragmented statutorially in the State of Tennessee that it is impossible for the State of Tennessee to act against almost any statewide criminal problem as a State. The small measure of success the West and Middle Tennessee District Attorneys have had with regard to these devices can be attributed in part to the generous assistance provided us by the Federal Bureau of Investigation and the United States Attorney's Office for the Western District of Tennessee. The Tennessee Bureau of Investigation, while its motivations are good, statutorially is prohibited from engaging in any law enforcement activity within a given Judicial Circuit until and unless the District Attorney of that Circuit requests its presence. The only exception to this law would be that the Tennessee Bureau of Investigation can come into an area without permission of a District Attorney if in fact their investigation concerns organized criminal activity. The Director of the Tennessee Bureau of Investigation has determined that the activities of the video poker industry do not constitute organized criminal activity.

Tennessee has historically tolerated wide-spread illegal gambling. With the advent of video gambling devices, this activity came out of the Country Clubs and Fraternal Lodges and into the taverns and convenience grocery stores of the State. Its corrupting influence reflects great and continuing discredit upon both police and public officials in the State of Tennessee. In the two years that I have been a District Attorney, I have become convinced that many officials in Tennessee will never enforce gambling laws unless compelled to do so by forces other than their own feelings of moral compunction and conscience. The selective non-enforcement of gambling laws as they relate to video gambling devices has made up the history of Tennessee Law Enforcement in this area and I fear will be our future as well, absent Federal intervention.

THE PREPARED STATEMENT OF VALERIE C. LORENZ, PH.D.

THE NEED FOR A NATIONAL POLICY ON COMPULSIVE GAMBLING

(ABSTRACT)

The number of pathological (compulsive) gamblers is on the increase. Membership in Gamblers Anonymous currently is reflecting a diversity in age, race, sex, education, income and vocation not previously evidenced. This diversity corresponds with the increase of legalized and illegal gambling (e.g., lottery and video gaming devices). Treatment programs are few and inadequate. Prevention and education programs are virtually non-existent. National policy on pathological gambling needs to be established.

I have studied and worked in the field of pathological gambling (more commonly referred to as "compulsive" gambling) since 1972. This has been in a variety of capacities - as researcher, community psychologist, educator and clinician. I wish to share with members of this Senate Subcommittee some national trends which are emerging in the United States. These trends are cause for alarm and merit the serious attention of this committee.

Increase of Compulsive Gambling

After three years of exhaustive study, starting in 1972, the Commission on the Review of the National Policy Toward Gambling stated in Gambling In America: Final Report that there were an estimated 1.1 million compulsive gamblers and another 2.2 million potential compulsive gamblers in the United States. This represented approximately .77% of all adults in this nation.

This figure was considered very conservative by members of Gamblers Anonymous. It was also considered by members of The National Council on Compulsive Gambling and The National Foundation for Study & Treatment of Pathological Gambling to be conservative. A more frequently cited estimate is between 6 and 10 million compulsive gamblers in the United States at this time.

There are several reasons for these beliefs and the increase in the number of compulsive gamblers.

Limited availability of gambling. At the time of the Commission study, legalized gambling in the United States consisted for the most part of horse and/or harness racing in most states, dog races and jai alai in a few states, some state lotteries, and casino gambling in Nevada. The effect of this limited legalized gambling was to restrict gambling to those individuals who had both the time and the money to travel to race tracks or to Nevada. Legal gambling was not readily accessible and financially possible for all segments of our society.

Lotteries. A decade ago the gaming industry and state legislatures started a movement to legalize numerous forms of gambling in the U.S. This was based on the rationale that taxes and profits from legalized gambling would provide needed revenues for state government coffers. Furthermore, It was anticipated that legalized gambling would reduce illegal gambling (although strongly contra-indicated by the Commission). Thus began the major thrust for implementation of state lotteries, which continutes to this date, and has expanded to Congress with the introduction of a bill to establish a national lottery.

The consequence of state lotteries is that gambling is now accessible to nearly anyone within walking or short-driving distance. Lottery gambling is also available to anyone over 18 for fifty cents. Furthermore, through marketing efforts and media interest in multi-million dollar lottery prizes, citizens are reminded and encouraged on a daily basis to participate in lottery gambling.

Casino gambling. The gaming industry's efforts to legalize casino gambling was not limited to Atlantic City. The industry has spent considerable money and efforts in attemptsto legalize casino gambling in Florida, Pennsylvania, Connecticut, New York, Louisiana, and other states. Also, whereas Las Vegas casino gambling typically has been viewed as gambling for the "high roller", Atlantic City gambling was being promoted for the casual, "average citizen" type of gambler.

Economy. The economic trends of the past several years, with high interest rates, lower purchasing power of the dollar, under- and unemployment have all served to encourage low income and fixed income citizens, in particular, to seek alternate means of supplementing their income. The lure of the lotteries, and quick gain for minimum effort, were hard to resist. The numbers of gamblers and the amounts wagered increased.

Computer technology. Another major influence on recent increased gambling activities is that of the advancement in computer technology. School children learn to use computers in school and at home. There are numerous programs of a variety of gambling games, such as poker and blackjack, available for these computers and school children.

Additionally, arcade games such as PacMan, Atari and Star Wars rapidly gained popularity in our competitive society. Unfortunately, these games of skill were soon replaced with games of chance, such as Joker Poker, Black Jack, Dwarfs Den, Bust My Balloons, Dawg Race, and others. Although billed "For Amusement Only", these games pass the test of being gambling devices _per se_. Although illegal, credits are paid off in cash by the owner of the machine or his representative. These machines have been distributed throughout the country, and are found in bars, arcades, hotels, restaurants, private clubs, fraternal organizations, bowling alleys, pool halls - virtually everywhere.

Social Acceptance of Gambling

This movement of legalization of gambling has already impacted on social mores and morality. To wit, gambling has become a socially accepted activity. Legality of gambling is no longer an issue. Individuals, who formerly refused to gamble on the grouds that gambling was illegal (such as numbers or after-hours clubs), now gamble at bingo, lottery, racetracks, casinos, off-track betting parlors, jai alai, and tele-betting, just to name a few.

Legalized gambling has removed the spector of morality in many instances. Bingo gambling is now legal in many states. Most bingo games traditionally were held in churches and to a lesser extent in fire halls. Bingo games now are also held in schools. (There is evidence now, also, that bingo games are frequently associated with other forms of gambling, such as instant lotteries and line betting by bookies.) Nevertheless, putting bingo in traditional neighborhood establishments, such as churches, fire halls and schools, has removed the specter of sinfulness in favor of acceptance.

Another major force was moving across the country at this time, namely, the women's liberation movement. Equal opportunity for women was extended not only to employment securement, but also to credit availability. Access to cash for gambling was no longer the hindrance it formerly had been for women.

Additionally, with the increase of divorced (i.e. single) women, and the emancipation of the homemaker and the career woman, it has now become socially acceptable for a woman to enter a casino or bar without a male escort. She can gamble when she chooses to gamble. She has the means and the opportunity to gamble which traditionally were denied her in the past.

Women, minorities, low-income groups - all now have equal opportunity to gamble, and to become a compulsive gambler.

Variations in Gambling Addiction

Pathological gambling was classified as an illness by the American Psychiatric Association in its _Diagnostic and Statistical Manual of Mental Disorders_, Third Edition, in 1979. Listed under Impulse Control Disorder (Section 312.31), it is commonly referred to as a psychological addiction and a hidden illness.

Until the past five years or so, the most typical description of a compulsive gambler who attended Gamblers Anonymous was that of a middle aged, middle class, white male, usually a businessman or professional. Gambling activity centered mainly on horse betting, casino gambling, sports betting, poker, or betting on stocks, commodities or options.

With the advent of lotteries, membership in Gamblers Anonymous included female compulsive gamblers, blacks, and lower-income people. They generally had a history of a more limited experience with gambling, gambling primarily on the lottery, and for a shorter duration until they "bottomed out." Nevertheless, these new members of Gamblers Anonymous reflected a similar history to the more typical GA members regarding crimes committed to support their gambling habit.

With the advent of the video gaming machines, compulsive gambling became truly democratic. "Poker machine addicts now include teenagers, retired people, men and women, usually lower class and less educated people, and individuals from all levels of vocations, from unskilled laborers to clerks, bartenders, salespersons and professionals.

The major difference with lottery addicts and poker machine addicts from the more traditional compulsive gambler, is that the time period from the onset of gambling, to compulsive gambling and to "hitting bottom" is considerably shorter. Whereas previous studies show a pattern of typically ten to fifteen years or more of compulsive gambling, with lottery and poker machine addicts this period is dramatically reduced, to as little as a few months.

In other words, the addictive quality of the games themselves, together with the accessibility and the availability of these two forms of gambling, lottery and video machines, are rapidly increasing the number of compulsive gamblers. This is of particular concern since the lottery industry is in the process of implementing video machine lottery games.

This increase in the number of compulsive gamblers is clearly evidenced by the growth of Gamblers Anonymous and GamAnon chapters in the United States. For instance, the first GA chapter was formed in Los Angeles in 1957. In 1972 there were 170 GA chapters. By 1983 there were 524 chapters in 42 states. New chapters are being formed almost on a weekly basis, both within GA and within GamAnon. GamAteen chapters are now being formed also. Current membership in Gamblers Anonymous is approximately 80,000. Many GA chapters are composed of an equal number of men and women. Some chapters are composed totally of females.

Need for National Policy

The need for national policy on compulsive gambling is clearly evidenced. State legislatures across the nation are implementing state lotteries and other forms of gambling. The gaming industry is expending considerable effort to thwart present laws regarding video gambing devices. Virtually every state has bills in its legislature to legalize already existing forms of gambling or to introduce a variety of new forms of gambling.

At present there are less than a dozen professional inpatient treatment programs for compulsive gamblers. The maximum bed capacity is approximately one hundred. There are slightly more outpatient professional treatment centers.

The number of professionally trained mental health therapists who are also trained or experienced to treat compulsive gamblers is less than one hundred. The number of compulsive gamblers runs in the millions. Family members who urgently need treatment amount to an even larger number.

There is an urgent need for prevention programs, community education, training of mental health professionals, research into etiology and treatment modalities, and, of course, treatment for compulsive gamblers and for their families.

Compulsive gambling behavior results in broken homes, serious medical problems, suicide attempts, domestic violence and child abuse. Financial problems result in loss of home, bankruptcies, increased welfare costs, and a variety of crimes, both violent and non-violent.

This country needs to seriously consider the impact of legalized gambling - what is the effect on the community, on the family, and on the individual. What are the gains of legalized gambling, and what are the costs of legalized gambling? How can these costs be minimized?

This country can ill afford to ignore the problems caused by compulsive gambling.

I wish to thank this Senate Subcommittee for permitting me to be heard.

Brief Statistics on "Poker Machine" addicts

In Scranton, PA, ten of the 12 most recent new members were poker machine addicts.

In Baltimore, MD, it is estimated that half of all GA members are poker machine addicts.

In Las Vegas, approximately half the membership of GA are poker machine addicts. Approximately half the GA membership is composed of women.

In New York, one GA chapter has 45 poker machine addicts.

A survey on over 500 compulsive gamblers and spouses from 26 states indicates poker machine addicts are in GA chapters in all of these states.

A survey on 15 poker machine addicts attending a GA chapter in an Eastern city resulted in the following data:

Age

3 were between 21 and 30 years of age
6 were between 31 and 40
6 were between 41 and 51 Mean age was 35 years old

Annual income

2 earned $10,000 or less annually
4 earned between $11,000 and $17,000
2 earned $25,000
5 earned between $30,000 and $35,000
1 earned $80,000 annually
1 was unemployed, mean income was $26,000.

These 15 poker machine addicts gambled on the machines for varying time periods:

3 for one year
3 two years
1 three years
5 four years
1 six years
1 eight years
1 twenty-five years (pinball and poker machine)

Mean of 3 years, excluding the pinball addict.

Where did you gamble on poker machines?

15 in bars
8 private clubs
6 restaurants
6 fraternal organization
2 hotel
2 casino
2 arcade
1 each in bowling alley, pool hall, cab company, and everywhere or anywhere they paid off

What kind of work do you do?

3 were in sales, 2 are machinists, and one each responded clerk, coal miner, production worker, general labor, firefighter, newspaper circulation, computer technician, self-employed, and professional. One was unemployed.

How much did you lose as a result of these machines?

1 $200 per week, for 4 years, plus lost my home
5 between $2000 and $3,500
2 between $17,000 and $20,000
1 between $25,000 and $30,000
1 $40,000
1 $300,000
1 "lost thousands, still owe thousands"
1 don't know, losses were heavy, still owe $23,000
1 amount is incomprehensible

What types of crimes did you engage in to support your poker machine addiction?

11	wrote bad checks
5	forged checks
4	forged signatures on loans, credit cards
3	embezzled
3	stole goods
3	filed false insurance claims or other report
2	loansharked
1	became a bookie
1	became a bag man and numbers runner

11 committed 2 or more types of crimes
5 committed from 4 to 8 types of crimes
2 were arrested for crimes committed to support their gambling
3 were fired as a result of the gambling

Gambling-Related Vita

Valerie C. Lorenz, Ph.D.

1983 Ph.D., University of Pennsylvania. Doctoral dissertation was on Environmental influences on gambling behavior and annotated bibliography on compulsive gambling
1978 M.PS.Sc., Community Psychology, Pennsylvania State University Master's thesis on compulsive gambling and effects on the family

Director, Gambling Psycho Data
Director, Evaluation and Family Services, National Foundation for Study & Treatment of Pathological Gambling
Member, Advisory Board, National Council on Compulsive Gambling
Editorial Review Board, Journal on Gambling Pathology
Formerly, Director of Research and Evaluation, Gambling Treatment Program, Taylor Manor Hospital, Ellicott City, Maryland
Clinician, private practice
Active Member, American Psychological Association
Active Member, Maryland Psychological Association

Several publications
Numerous papers presented at professional organizations
Numerous lectures and training sessions in academia, law enforcement agencies and mental health agencies
Numerous appearances before private, community, professional and business organizations, in person, on television and radio, and newspapers.

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PREPARED STATEMENT OF STEPHEN HOCHMAN, PRESIDENT,

NEW YORK STATE COIN MACHINE ASSOCIATION

On behalf of the members of the New York Coin machine association I thank you, Senator Roth. My Name is Stephen Hochman. I am President of The New York State Coin Machine Association, and President of Crown Vending Corporation, a company heavily involved in all phases of the coin machine industry. We have been in business in this industry for nineteen years.

I wish to thank you and your fellow committee members for giving me the opportunity to testify before your committee on a subject that has become a great concern of mine - and our association. The fight against the proliferation of illegal coin operated Gambling Devices. I feel honored to be asked to contribute to the work of your committee.

What brings me and the other witnesses here today is an issue which I and members of my association believe is an insidious danger. Which faces the whole country, and particularly our young people. That statement, Senator, is not exaggeration on the part of a witness. It is a fact of life, and unfortunately, for many of today's youth, a fact of personal destruction.

There are those who would contend that the problem of gambling is temporary or one that has been blown out of proportion. I am here to add my voice to the growing numbers of alarmed parents, educators, law enforcement officials, legislators, and business men and women who have come to the realization that we had better work collectively to fight this growing disease that is Destroying the financial lives of a significant number of our citizens.

It is necessary to put the problem into some perspective. I would doubt that there is anyone in this room who does not know someone whose life has not been adversely affected by excessive gambling. When you think of the problem in those terms, you begin to realize the extent of the crisis we are facing.

As you can see, my opinions on this subject are not lightly held. They have been reinforced every day since the bombings and other acts of severe violence in Tennessee, New York City, and other parts of our country.

To emphasize this point let's examine some of the recent events and statistics. Private conversations with members of the F.B.I. and New York City Police Officers revealed the existence of more slot machines on the streets of New York City than in Atlanatic City

On the CBS program 60 minutes, an undercover investigator for the New York State Liquor Authority revealed that every bar had an illegal gambling device in active operation. It was estimated by this investigator that total annual income exceeded three hundred million dollars. It becomes clear that on a national level this figure could reach an astounding 15 billion dollars annually, pouring through illegal coin operated gambling devices.

We must ask where is this money coming from? Who is putting it into these illegal coin games? New York Westchester County District Attorney Carl Vergari, after completing a successful raid on alleged owners of these illegal coin devices said:..."complainants included parents of school children who were using their lunch money to gamble." Vergari also said his office's rackets bureau is exploring possible links between the men (arrested)... and organized crime.

In Philadelphia a number of police officers and their superiors were indicted and convicted of conspiracy to protect illegal gambling and the use of illegal coin operated gambling devices. Also in Pennsylvania, a sheriff in the western region of the state committed suicide at the time an investigation into the operation of illegal coin machines in the area.

And in Allegheny county in Pennsylvania law enforcement officals, during their prosecution of organized crime figure Charles "the monster" killington, quoted him as saying that monies collected from illegal coin operated gambling machines contributed in large measures to financing organized crime killings, and to fund expanding drug operations.

Bombings and death threats punctuated the attempts of the State Atty. General Claybourne Peeples of Tennessee to eliminate coin operated gambling devices in taverns and other illegal locations. Despite all the violence against innocent victims and the Atty. General himself, he succeeded in prosecuting and convicting the major force behind the placement of these illegal coin games.

Since the trial and convictions, public awareness to the depth of this gambling problem has created a climate which makes it extremely difficult for the resurgence in the use of these illegal coin games in the jurisdiction which peeple's serves.

Now, gentlemen, please realize that my primary interest, by the nature of my elected office is the state of N.Y. and if I may return to the specific problems plaguing this great state and the recommendations of the New York State Coin Machine Association to effectively deal with them.

This problem is no secret. It is well known to all levels of local, state, and national Law enforcement agents. Why has nothing been done about it in New York?

For Example, when I presented myself to the F.B.I. office in Suffolk County to ask their assistance in fighting this insidious crime, special agent Bruce E.Brady began by searching me, for fear I was wired to entrap him. We must in good conscience ask ourselves, why? After listening to all I presented to him, no action ever came out of that office, to my knowledge.

In New York City it is public Knowledge that illegal coin operated gambling machines have been confiscated. It also is clear that what's been done is minimal compared to the scope of the illegal Activity.

For instance, approximately 1,000 illegal coin operated gambling machines are presently in the hands of the New York City Police Department. On the other hand, estimates of these illegal gambling machines in use on the streets of the City today are an excess of 12,000 units.

Where's the effort? The New York Police Department has a force of some 200 officers whos job it is to deal with this problem. But the gambling devices still are on the streets, soaking up innocent cash for illegal activities, while at the same time cheating our government and its citizens from true taxable income.

It seems clear after all of this, that a new national law dealing with the interstate transportation of illegal gambling devices is critically needed. The Johnson - Eastland act as amended has become totally ineffective.

In summation, this is a problem which transends the popular conception of innocent gambling fun. What we see here is a major effort by organized crime to capitalize on this latest illegal gambling scam - already affecting legitimate businesses, law enforcement, and even on children.

NCMI THE NATIONAL
COIN MACHINE INSTITUTE, INC.
(Serving Cigarette, Music and Game Operators)
2455 East Sunrise Blvd., Suite #311
Ft. Lauderdale, FL. 33304
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September 25, 1984

Hon. William V. Roth,
Chairman, United States Senate
Permanent Subcommittee on
Investigations
100 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Roth:

Enclosed are five copies of the National Coin Machine Institute's testimony for the October 1, 1984 hearing of the Senate Permanent Subcommittee on Investigations.

Our statement relates to the illegal operations of grey area machines and the use of video games in state sanctioned lotteries.

We have included reccommendations concerning possible Federal legislation. We are quite willing to supply more detailed suggestions for specific language, if the Subcommittee desires.

Thank you for the opporunity to submit our views and reccommendations.

Sincerely yours,

Herbert M. Beitel

Herbert M. Beitel
Managing Director

HMB/sv

Encls.

PREPARED STATEMENT OF THE NATIONAL COIN MACHINE INSTITUTE

The National Coin Machine Institute (NCMI) is a national trade association of coin operated amusement, music and cigarette machine operating companies Our members have operations in all of the fifty states. We do not represent machine manufacturers or distributors.

Our members have a deep and continuing interest in the subject matters of this hearing: grey area games; illegal operations of grey area games and video games in state sanctioned lotteries.

Our interest arises from cerncerns about the real and potential impact on our industry and our member companies from these activities.

NCMI held a series of regional meetings across the country in September, 1983 to review these subjects. As a result of reccommendations from these discussions, the NCMI Board of Directors unanimously adopted the following resolution:

"Whereas,illegal operation of so-called "Grey Area" machines is creating legislative, law enforcement and public relations problems for the coin machine industry, and;

"Whereas, investigations of these activities by law enforcement agencies, governmental agencies, and media groups are in progress and pending, and;

"Whereas, these activities present a serious competetive threat to legitimate operators of amusement and other coin operated equipment;

"Be it therefore resolved, that the National Coin Machine Insttitute,Inc., is opposed to the illegal operation of any coin-operated equipment and will undertake all proper action to deter and stop such activities."

GREY AREA GAMES

DEVELOPMENT AND HISTORY

Electronic technology has provided our industry with amusement games of the "Pac Man" type. These games nearly doubled our industry sales volume during the period of 1979 to 1982. Starting in the Fall of 1982, the popularity of coin-operated video games dropped disastorously. Our revenues from video games in 1984 will be only about 35% to 40% of those in the peak periods of 1981 and 1982.

That same electronic technology spawned the production of relatively inexpensive, easy to mainatin, highly portable grey area machines at just about the time of the precipitous collapse of amusement video games.

A number of new machine manufacturers surface to provide grey area machines. A small number of established machine manufacturers also entered into the production of these machines. Many of the available grey area machines are easily converted to gambling machines.

The sales activities of these manufacturers have brought a number of new operators and distributors into the industry marketplace. They are placing grey area gambling equipped units in any location that they can sell. Some locations are buying machines for self-operation.

Our established operators report intense competetive pressures at their locations. Many of our locations, usually bars and clubs, are demanding such equipment. For some of these locations the substantial revenues from these gambling activities is the difference between continuing in business or closing.

Our operators are finding their continuing business with these locations for our legitimate amusement games as well as our music and cigarette machines is jeapordized.

Nearly all areas of the country report invasions of illegal grey area machine gambling operations.

LAW PROBLEMS

Gambling machines and paraphenalia are illgeal in every jurisdiction in the United States except for Nevada, Atlantic City, New Jersey, Nebraska (video lottery machines),Montana (hand-held poker) and those 43 states that permit Bingo games for cash and prizes under certain conditions.

Coin-operated poker machines were legal in Montana until the state Supreme Court ruled they were illegal because such machines changed the odds from those of hand-held poker.

Grey area games are specially regulated and licensed with substantially higher fees than for amusement only games in South Carolina and Minnesota. Gambling on such machines is, however, illegal under the laws in those states.

Under Federal statutes, transportation of gambling equipment in interstate commerce is illegal unless the receiving state has enacted a law exempting themselves from such strictures (15 USC 1173). Dealing with or operating gambling equipment knowing it was shipped in interstate commerce is also subject to criminal prosecution (15 USC 1173)

Many grey area games can easily be converted from amusement or skill only configurations to gambling units after having been legally shipped in interstate commerce.

The Federal government abandoned all direct jurisdiction over gambling equipment, except for interstate shipments, with the repeal of the Coin Operated Gambling Device Stamp Tax on July 1, 1980.

Legal standards for determining if machines are gambling equipment, once out of interstate commerce depend on the laws and precedents extant in that state. These are far from uniform--even within the individual states.

These determinations are so mired in semantics that they provide illusory protection for the public,protratced litigation for law enforcement agencies and an open playground for gambling promoters. The ingenuity of gambling promoters in meeting the letter of anti-gambling laws while doing great violence to their spirit if legendary and axiomatic.

Courts in Ohio amd Pennsylvania have ruled that certains types of grey area games are gambling amchines per-se. These standards include the presence of "knock-off buttons, meters and virtually unlimited "free play" or "skill point" register systems. In nearly all other jurisdictions it is necessary for the evidence to be based on in pari delicto actions.

State liquor authorities in several states, including New York, Michigam, Ohio, Minnesota,Wisconsin and Florida, have taken the official position that grey area gambling operations on licensed premises under their control are violations of the conditions for granting liquor licenses and may lead to suspension or revocation of the licenses.. However, enforcement of these rules require actual witnessed pay-offs to winners.

As a result of all this confusion and highly complex semantics, local law enforcement is inhibited, and sometimes corrupted and cynicism and myopia of the public is widespread.

Many law enforcement agencies have taken the stand that they do not have the manpower or funds to obtain the necessary evidence for successful prosecutions. In addition, they claim that closing down gambling operations is only temporary at best since they pop up in other areas very quickly and that the cases are strung out in the courts requiring an inordinate amount of time and funds to prosecute.

Many authorities flatly state that they feel their resources are better used to protect the public from violent crimes and in prosecution of violent offenses.

The general public has developed a high degree of cynical tolerance for these illegal activities because of apparent law enforcement indifference. At the same time the public steadfastly refuses to take the logical step of legalizing and heavily regulating gamblin activities--with the exception of state sanctioned lotteries and charity bingo games.

This background of confused and spotty law enforcement provides fertile ground for official corruption. The indictment and conviction of several policemen (at all levels of the department) in Philadelphia and similar cases in northeastern Ohio are proof of this.

The Federal Bureau of Investigation has several continuing investigations of official corruption in progress in several other areas.

Another, and more alarming to our industry, result is that a low law enforcement profile in the gambling machine operations area is an open invitation for the invasion of organized crime forces.

When organized crime forces move in, arson, violence,extortion and corruption immediately appear. There have been cases of arson in Tennessee, California and other areas; car bombings in Connecticut and Pennsylvania and operators have reported cases of threats.

These evidences of the presence of organized crime tactics appearing in grey area gambling operations is ominous to our established operators.

The coin operated amusement machine industry is highly competetive. Our industry has made possible the building of many successful businesses, large and small, that employ hundreds of thousands of our fellow citizens, Organized crime operations are particularly distinguished by the lack of competition with their operations in areas where they gain control. Established operators want to keep our industry competetive, progressive and profitable.

As we have pointed out some grey area games are operated for amusement purposes only with no taint of gambling activities. The illegal gambling operations of grey area games, however, create severe problems for the coin-operated amusement industry,law enforcement agencies and the public in general.

NCMI believes these problems should be addressed in a much more effective manner than is currently the case. We believe such gambling activities should either be legalized and closely regulated or, if not legalized, that law enforcement should be vigorous and uniform. Our established operators are clearly faced with the no-win alternatives of seeing the business they have worked so hard to build being progressively destroyed by illicit invasions of their markets - or becoming criminals themselves. No businessman in the United States should have to face that dilemna. It is a positive duty of government to protect legitimate business and their employees.

At the core of the problems we have outlined is the confusing, and conflicting standards for determining what are and are not pieces of gambling equipment and paraphenalia. We believe clearly defined Federal standards coupled with Federal regulation and enforcement activities against illicit operations are basic to an effective program of protecting the public and legitimate businesses and their employees.

Assuming that nationwide legalized gambling operations will not happen in our lifetimes, the question of standardized enforcement then becomes crucial. Without Federal standards and support,the indivdual states who do not permit gambling can only fight the invasion of illicit activities a piece at a time. History in this area has proved that is impossible...

NCMI believes Federal definitions and standards for recognizing gambling equipment and paraphenalia should include the presence of meters, "knock-off"buttons and the provisions of a limited number of "free plays" or "skill points".Note that Ohio (15 limit) and Michigan (15 limit) do have such restrictions in their laws.

We also believe the Federal government should reinstitute the Coin Operated Gambling Device Stamp Tax.

Such Federal laws and supporting enforcement would assist and pressure the individual states into clarifying their standards concerning the legality of gambling operations .provide the base for effective law enforcement activities in areas that choose to exempt themselves from Federal restrictions by legalizing gambling activities.

STATE SANCTIONED LOTTERIES

State sanctioned lotteries are currently operating in 17 states and the District of Columbia. Nebraska currently permits the operation of local lotteries but by law they are to cease on January 1,1985.

These operations now cover nearly 2/3rds of the United States' population. The question of state sanctioned lotteries will be on referendum at the November,1984 elections in the states of California, Missouri, Oregon and West Virginia (all currently non-lottery states.). If approved,state lotteries will cover the overwhelming majority of this country's citizens.

Gambling industry professionals are predicting that well over half of the 50 states will have lotteries by 1990. There have even been suggestions for a national or nationalized lotteries.

Expanding from the starting base of single weekly drawings, state sanctioned lottery programs now include a proliferation of weekly and daily drawings as well as "instant" lottery tickets that tell players immediately if they have won or lost by rubbing off the masking coating over the numbers on the pre-printed ticket.

By definition in statutes and court precedents, "lottery games" must be determined entirely by chance and may not include any elements of skill.

In all of the states with lottery programs and those states voting on lottery programs in 1984, gambling is illegal with the exceptions of "off-track betting" in New York,casinos in Nevada and Atlantic City, New Jersey; and Bingo games for cash or prizes under certain restrictions (mostly for "charitable" purposes).

Many lottery states are considering the inclusion of video lottery programs in their lottery gaming operations.

A test of on-line video lotteries was started on August 1,1984 in Illinois (the first in the United States) to run for six months. Many state lottery commissioners have indicated a deep interest in including video lotteries in their activities if the Illinois test is successful.

As noted earlier Nebraska currently permits the operation of local off-line video lottery machines (essentially grey area machines called lotteries). By a 1984 law these are to cease operating by January 1,1985...

State lotteries are big business with an estimated gross take in 1984 of $6 1/2 billion. State sanctioned lotteries are charged with making profits for the state treasuries. Lottery administrators, being good businessmen, are constantly seeking to increase their revenues to justify their being permitted to continue in operation.

As state sanctioned lotteries have proliferated their gaming activities they have come perilously closer to gambling activities prohibited by the laws of their respective states. Certainly "lotto" games and their counterparts are close, if not the same, as the illicit "numbers' rackets that have been operated illegally for decades. "instant tickets" are hard to distinguish from the long-ago outlawed puncboards or "ticket jars".

"Video lottery" machines in Nebraska are classified by supporters and opponents alike as "video slots" - meaning quite clearly slot machines -which are illegal under Nebraska law. The Attorney General and the Legislative Counsel for the State of California have both ruled that video lottery machines (or terminal) are slot machines under California laws and would be illegal even if the lottery referendum is approved by the voters in November. New Jersey banned video lotteries by law in 1982. Attorney's General in New York, Connecticut and Massachussets have similarly ruled against video lottery machines (or terminals) as a legal extension of the state sanctioned lottery programs in their states.

In effect,these expanding "lottery" operations are making gambling activities accessible to increasing numbers of residents through state controlled monopolies. State lottery commissioners are accomplishing by indirection what the legislators and the voting public have consistently refused to do directly - legalize gambling operations.

We do not believe this is in keeping with our basic structure of representative government. In addition the competition of a state sanctioned and public-fund-advertised monopoly offering gambling incentives would be deadly for amusement only game operations.

NCMI reccommendas stated earlier, that definitions of gambling equipment, paraphenalia and operations be clarified and strenghtened in Federal statutes. We also reccomend that the states be rquired to specifically exempt themselves by laws approved by their legislative bodies from Federal statutory coverage.

SUMMARY

NCMI is opposed to illegal operations of grey area equipment and has been active in seeking to block the invasions of such activities into our industry's legitimate operations and our marketplaces. The statutory and court precedent status concerning these operations is confused,ill-defined and unevenly enforced. This spotty law enforcement unnecessarily provides fertile ground for invasion of our markets by the forces of organized crime and to corruption and violence.

NCMI feels the Federal government has a responsibility to control the problem of illicit gambling operations. Our reccomendations for meeting those obligations have been outlined above.

The surge of state sanctioned lotteries and the proliferation of gaming activities under the banner of "lotteries" is indirectly moving the states into the gambling business and as a purported monopoly.

Although touted as being a method for stamping out the gambling operations of organized crime forces, the real results are dismal and unconvincing. The higher pay-out percentages to winning players and the availability of credit continue to make the illict operations very appealing to gamblers.

We believe the Federal government has a continuing responsibility to insure that gambling activities are uniformly regulated and confined to approved legal areas for everyone involved in such activities.

Thank you for the opportunity to present our views and reccommendations.

Millie McCarthy, PRES.
P.O. Box 204
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New York State
Coin Machine Association, Inc.

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ON INVESTIGATIONS

September 21, 1984

Mr. Bruce Selcraig
U.S. Senate Permanent Subcommittee
on Investigations
Washington, D.C. 20510

I, Amelia (Millie) McCarthy of the New York State Coin Machine's Association, have found the following distressing problems as they affect the amusement machine industry, with illegal coin games in particular.

We have been battling instrusions of organized crime in this industry since I testified for the McClellan Committee in 1957. We didn't seem to have many problems even through the brief video game boom recently. Perhaps drugs were lighter to carry and brought in more.

Then "gray area" games seemed to appear in out of the way or questionable locations. They were surreptitiously delivered with no name, address or other identification. Pay-offs were not made when there were unfamiliar faces in the bar. Just the stealthy way it was all handled, proved the operators and locations involved knew they were handling an illegal item. The camouflage was an "For Amusement Only" sign. You never saw "For Amusement Only" on Pac Man or Space Invaders.

As this activity progressed, it became apparent that the operators were often the shadowy figures dealing on the periphery of the law -- often adept at bribing. Embarrassment or arrest was not the problem it would be for an upstanding citizen. When all this activity continued without any problems with the police or any suspension or revocations of liquor licenses, the proliferation began. Bookies who made a good strike could go in business over night. Three or four counter models could be carried in a trunk of a car as the slots were in the old days. Electronic technicians were not a necessity because you could always bring in a working one out of the trunk and then have the other repaired. We've even had cops from N.Y.C. operating in Ulster County and firemen from N.Y.C. operating in Westchester County.

Being inundated by strangers operating in their locations, bringing down the take on their legal games to dangerous levels, the straight operators went to the law in many cases without getting any help whatsoever. By now the operators got emphatic requests from their locations to bring a machine in or else.

Seeing nothing happen to the invaders, many of the legitimate operators went in. The few big operations are set up by organized crime.

Government buries the good citizens by its inactivity. Had this been stopped at the beginning, it would never have become a national problem. Crime pays. It is now going to pay an army of law enforcement people who will be handling it. It paid the wrong people who are generally evaders of taxes, and now they will have more money for other illicit programs -- hurting more people. Government does not believe in prevention. When the disease sets in, the solutions are complicated and often impeded by corruption.

The mores of today's society that condone or overlook many addictive habits and behavior, have opened the door to those who will take advantage of these habits for financial gain -- the government included. Gambling is an addiction that has always been with us and has been acceptable when done in a friendly and amateur way. The government went into all different forms of gambling, insinuating all the while that it will be well regulated, clean fun as long as the government runs it. History has proven differently. The cast of characters involved in these operations, generally find their counterparts on the government side. Heavy money through some of the wrong people -- very wrong people -- is convincing a greedy government that this is the way to go in a sophisticated society. It's not hard when you prefer to be blind to the end results.

Game manufacturers, encouraged by the laisez-fare attitude that exists, have taken the various themes of the fruit or card slot machine and placed them in the type video games the teenagers are playing. Only a simple step up but just as sneaky as a shot of vodka in their cocoa. And no one can say teenagers will be excluded. Look at the epidemic teenage addiction in New Jersey, and youngsters playing these games in South Carolina. So now we come to the next progression -- **VIDEO LOTTERY!** with much the same movers and shakers mentioned above.

The Department of Justice has extensive jurisdiction when dealing with gray area games through ITAR, the Interstate Travel Act; IGB, the Gambling Business Act; ITGD, Interstate Transportation of Gambling Devices; and RICO, the Racketeer Influenced and Corrupt Organizations Act. There are also special statutes aimed at corruption-tolerated illegal gambling, but the Coin Operated Gaming Device statute should never have been allowed to run out in 1980. It definitely should be renewed.

Sincerely,

Millie McCarthy

Millie McCarthy

Eugene Martin Christiansen

New York, New York 10024

October 30, 1984

Hon. William V. Roth, Jr.
Chairman
Permanent Subcommittee on Investigations
Committee on Governmental Affairs
United States Senate

Dear Senator Roth:

I read with interest press reports of the Permanent Subcommittee on Investigation's October 1, 1984 hearing on the important issue of the use of video poker machines and other video devices for illegal gambling purposes. While I applaud your concern with a major development in U.S. commercial gambling that has received too little public attention, I was somewhat disturbed by the vague and imprecise estimates of the present dimensions of the problem of "grey area" gambling devices that appeared in the newsmedia's summaries of the hearing. In particular, I noticed in several print and television news reports statements estimating U.S. illegal gambling through "grey area" video devices at $15 billion annually. As the author of some recently published estimates of U.S. gross wagering and gross revenues ("The Gross Annual Wager of the United States: 1983. Part I: Handle. Part II: Revenues", a two-part article in the June and August 1984 issues of Gaming Business magazine), I was curious as to the factual basis for these statements, and was disappointed to find, upon examining the prepared testimony offered at the hearing, that, apparently, there is none.

This is an all too familiar difficulty. The lack of verifiable and logically consistent estimates of the dollar volumes of various forms of illegal gambling remains a serious impediment to the formulation of rational gambling policies and laws at all levels of government. There has been no shortage of numbers: the production of "official" estimates of illegal wagering has been a regular function of Congressional committees and Presidential commissions since the investigations of the Kefauver Committee in the early 1950s. The problem is rather the insubstantial foundation for most of these estimates. With the exception of the 1974 survey of American gambling behavior conducted by the Survey Research Center of the University of Michigan for the Commission on the Review of the National Policy Toward Gambling a decade ago, hard, objective bases for estimates of illegal wagering have been virtually non-existent. The absence of such data has produced a peculiar situation where, for some thirty-five years, wholly fantastic statements concerning illegal wagering, revenues, and profits are made to Congressional committees, repeated in an uncritical press, and in this way quickly become a kind of received truth, something "everybody knows" about illegal gambling in America.

In this way a fantasy world, a Never-Never Land where illegal wagering volumes dwarf the defense budget, has been imagined -- and perpetuated for bureaucratic reasons by agencies with vested interests in inflating the dimensions of a very real and very serious social ill. I regret to say the estimate of $15 billion gambled annually on "grey area" video gaming devices now being circulated — because of the imprimatur of its statement at the Subcommittee's hearing — through the media bids fair to become the latest addition to this harmful miasma. The number is almost certainly too high. Much too high. Consider:

1. In the twelve months ended December 31, 1983 lotteries operated by 17 States (and the District of Columbia) with approximately 43% of the U.S. population reported gross sales (gross wagering, or handle) of about $5.6 billion. These lotteries offer a menu of gambles — weekly games, daily games, instant games, pick-your-own-number numbers games, and multi-million dollar prize lotto games — able to satisfy a wide spectrum of appetites for risk; are not only legal but are operated by the States; are extensively and effectively advertized by the States; are even more effectively promoted by media stories of multi-million dollar prizewinners; and are as a result by every measure currently the most dynamic form of commercial gambling in the country. Yet lotteries sold "only" $5.6 billion worth of tickets in 1983. It is very unlikely that illegal, "grey area" video games, however numerous, handled three times this amount of money in a comparable period of time.

2. In 1981 coin-operated games played purely for amusement — "PacMan" and the like — grossed $5.5 billion.[1]

1981 was the height of the video game craze -- one of the most explosive markets in the history of American leisure. Video games were ubiquitous; legal almost everywhere; and promoted by one of the most massive and obviously effective advertising campaigns ever mounted. By any reasonable calculation PacMan alone was available to more Americans in 1981 than "grey area" games can possibly be today. Yet at the peak of their meteoric rise these games grossed "only" $5.5 billion. To maintain, without some hard factual evidence, that $15 billion is being gambled at "grey area" games today when the combined resourses of the American leisure and advertising industries riding what can only be termed a video game mania could only extract $5.5 billion through very similar amusement games in 1981 is not a credible position.

3. By comparison to other, reported leisure expenditures a $15 billion gross wager on "grey area" games appears intrinsically improbable. Congress routinely deals in gigantic sums, and through familiarity with the scale of defense or entitlement program budgets many Members have seemingly lost all perspective on the magnitude of, say, a billion dollars in the real world. In terms of leisure spending a billion dollars is substantial. For example, in 1983 the value of the U.S. domestic theatrical film boxoffice -- the dollar value of the 1.173 billion film tickets sold that year — was $3.697 billion.[2] In 1981, the year of PacMan, the value of the U.S. domestic theatrical film boxoffice was $2.7 billion.

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[1] According to statistics compiled by the Amusement Device Manufacturer Association as reported in Variety, April 21, 1982, p. 202.

[2] As estimated by Variety, January 11, 1984, p. 7.

These numbers, and the $5.6 billion 1983 U.S. lottery gross wagering or sales, are relatively hard statistics. They provide a common-sense perspective in which expenditures of large but unknown magnitude — such as illegal gambling at "grey area" video games — may reasonably be considered. I do not know how much money was gambled illegally on video games last year, but in this common-sense perspective the unsupported statement that "grey area" devices handled $15 billion looks like a wild — and unsupportable — guess.

I think the point is made. In and of itself it might not be worth the trouble taken here to make it, but, as has already been observed, the $15 billion "grey area" game handle estimate that emerged from the Subcommittee's hearing is only one number among a myriad of fantastic statistics that cloud the true dimensions of this country's illegal gambling problem.

Commercial gambling, legal and otherwise, is by all accounts more important to Americans today than at any time since the Colonial period, when private lotteries were the principal source of public finance for governments that lacked both the power to tax and adequate banking systems. Voters and governments are daily asked to decide gambling policy and enact gambling law -- and these decisions are made vastly more difficult when so much of what "everyone knows" about gambling is demonstrably wrong. The unhappy result is a massively inadequate response to the American propensity to gamble: Federal, State, and local gambling law and regulatory practice that have created a near-insoluble illegal gambling problem and are failing to protect the public interest in the operation of newly legal commercial games.

Gambling for most Americans is a recreation, but commercial gambling is not a toy. It is an industry, one that is rapidly assuming the institutional power to effect permanent changes in the way we live. Efforts — such as the Subcommittee's hearing — to replace heresay and myth with hard facts and knowledge about gambling games are the best possible method of ensuring that commercial gambling serves the public and not the other way around.

This is particularly true of illegal gambling operations, which do not file 10-K forms or issue annual reports. A good place to start is the basic numbers: the gross amounts wagered and the gross revenues — or collective losses — retained by illegal operators. Government cannot rationally address the problem of illegal gambling unless these basic numbers are at least approximately known. In 1983 Internal Revenue broke with a thirty-five year Federal tradition of making unsupported estimates of illegal wagering and revenues by publishing sophisticated updates (to 1979)[3] of the survey data produced at the University of Michigan for the Commission on the Review of the National Policy Toward Gambling. Internal Revenue proposed in this document to replace high FBI illegal gambling estimates in use for many years with lower ones "because (the)...high FBI estimates of gross (illegal) wagers ... the FBI has since acknowledged to be invalid ...The advocates of the higher estimates ... have so far failed to produce credible evidence in support of their case."[4]

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[3] Department of the Treasury, Internal Revenue Service, Office of the Assistant Commissioner (Planning, Finance and Research) Research Division, *Income Tax Compliance Research: Estimates for 1973-1981* (July 1983).

[4] *Estimates for 1973-1981*, pp.47, 196.

Internal Revenue's updating of the Federal Gambling Commission's statistics is a long step toward a rational appraisal of the true dimensions of illegal gambling in the United States. The Service's 1983 report provided the basis for my own estimates of illegal wagering and revenues, which carry Internal Revenue's estimates forward from 1979 to calendar 1983. Copies of the articles in which these estimates appeared are enclosed for the Subcommittee's consideration. A somewhat fuller set of estimates is given in the context of the history of these statistics since the Kefauver Committee in The Business of Risk, by myself with Professors Vicki Abt and James F. Smith, from the University Press of Kansas early in 1985. Should the Subcommittee have a continuing interest in this matter I will be glad to supply a copy of this book when it appears.

Sincerely,

Eugene Martin Christiansen